



Dobrich, et al.  
Lois Hobbs

v.  
C.A. # 15-120 (JJF)

Indian River School District, et al.  
October 24, 2006

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1 APPEARANCES (CONT'D):  
2 JASON P. GOSSELIN, ESQUIRE  
3 DRINKER, BIDDLE & REATH, LLP  
4 One Logan Square  
5 18th and Cherry Streets  
6 Philadelphia, Pennsylvania 19103-6996  
7 On behalf of Defendants  
8  
9 ALSO PRESENT: TIMOTHY KEARNS  
10 LINDSAY DuPHILY, VIDEOGRAPHER  
11 -----  
12 THE VIDEOGRAPHER: This is the videotape  
13 deposition of Ms. Lois Hobbs taken by the Plaintiff in  
14 the matter of Dobrich, et al., versus Indian River  
15 School District, et al., Civil Action No. 15-120. The  
16 deposition is being held at 31 Hoosier Street,  
17 Selbyville, Delaware, on October 24th, 2006. We are  
18 going on the record at approximately 9:12 a.m.  
19 The court reporter is Julie Parrack from  
20 the firm of Wilcox & Fetzer, Wilmington, Delaware. My  
21 name is Lindsay DuPhily, and I am the videotape  
22 specialist of Discovery Video Services.  
23 Counsel will now introduce themselves, and  
24 then the court reporter will swear in the witness.  
MR. ALLINGHAM: My name is Tom Allingham.  
I represent the plaintiffs. Along with me is Brian  
Lenhard and Tim Kearns.  
MR. GOSSELIN: Jason Gosselin for the

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1 defendants.  
2 LOIS HOBBS,  
3 the deponent herein, having first been duly  
4 sworn on oath, was examined and testified as  
5 follows:  
6 BY MR. ALLINGHAM:  
7 Q. Mrs. Hobbs, Ms. Hobbs, which do you prefer?  
8 A. Miss, Miss Hobbs.  
9 Q. Miss Hobbs, sorry. Have you ever been deposed  
10 before?  
11 A. Yes.  
12 Q. All right, so you know the process. I'm going  
13 to ask you some questions. You are -- unless your  
14 counsel instructs you not to answer, you're obligated  
15 to answer those questions to the best of your ability.  
16 I'm almost world renowned for asking questions that  
17 are sometimes confusing. Please tell me if you find a  
18 question confusing or ambiguous, and I will do my best  
19 to fix it. Don't answer a question that you don't  
20 feel like you understand.  
21 A. Okay.  
22 Q. You need to answer, although we have a  
23 videographer here, you still need to answer out loud;  
24 that is to say, so that the court reporter can take

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1 down your answer and there's no ambiguity in what your  
2 answer is. Nods and "um-hums" can be misinterpreted.  
3 A. All right.  
4 Q. I understand that you have a previous  
5 commitment and that you need to stop at 1:00 this  
6 afternoon, correct?  
7 A. At 1:30 at the latest.  
8 Q. Okay. I think what we'll do then is stop for  
9 lunch at 1:00. You can take care of your obligations  
10 and if we need to resume thereafter, we will.  
11 Is there any -- are you suffering from any  
12 condition that would prevent you from giving  
13 comprehensive and truthful answers to my questions  
14 today?  
15 A. No.  
16 Q. Or taking any medications that might prohibit  
17 you from doing that?  
18 A. No, I took a Benadryl, but I don't think that  
19 will prohibit.  
20 Q. All right, your full name is what?  
21 A. Lois Margaret Hobbs.  
22 Q. And what is your address?  
23 A. It is 3 Brighton Street, Ocean View, Delaware.  
24 Q. Are you currently employed?

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1 A. No, I am not. I'm self-employed. I am working  
2 as a consultant for an education foundation.  
3 Q. What's the foundation?  
4 A. Rodel.  
5 Q. And is your business, your consulting business  
6 incorporated or otherwise legally organized?  
7 A. It is just on an hourly basis with them. And I  
8 will, you know, pay taxes on the one --  
9 Q. Yes, ma'am.  
10 A. I'm not incorporated, no.  
11 Q. Okay. You previously served as the  
12 superintendent of the Indian River School District; is  
13 that right?  
14 A. Yes.  
15 Q. What dates did you serve in that capacity?  
16 A. I started in 1996 until 2006.  
17 Q. And why did you leave your position?  
18 A. I retired.  
19 Q. Did you meet -- are you represented by  
20 Mr. Gosselin here today?  
21 A. Yes.  
22 Q. Did you meet with Mr. Gosselin before this  
23 deposition --  
24 A. Yes.

2 (Pages 2 to 5)

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1 Q. -- for preparation purposes?  
2 **A. Yes.**  
3 Q. When did that take place?  
4 **A. Last week, I believe on Tuesday.**  
5 Q. And were there other people there?  
6 **A. Yes.**  
7 Q. Who was there?  
8 **A. Susan Bunting and Rick Cohee.**  
9 Q. Anyone other than Mr. Gosselin, Miss Bunting,  
10 Mr. Cohee and yourself?  
11 **A. No.**  
12 Q. Did you review any documents at that meeting in  
13 preparation for this deposition?  
14 **A. No, I didn't review documents.**  
15 Q. Have you done anything else, other than meeting  
16 with your counsel and a couple of your colleagues, to  
17 prepare for this deposition?  
18 **A. I got a copy of the Board policy on prayer.**  
19 Q. Okay. That's the Board -- that's the policy on  
20 School Board prayer?  
21 **A. Yeah.**  
22 Q. Okay. We'll mark a copy -- or take a look at a  
23 copy of that in a minute.  
24 **A. Okay.**

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1 Q. Have you spoken to anyone who's been deposed in  
2 this case?  
3 **A. No.**  
4 Q. Or reviewed any transcripts of depositions that  
5 have been taken in this case?  
6 **A. No.**  
7 Q. All right. At some point in this litigation  
8 did you review your own personal files and collect  
9 documents for production to the plaintiffs?  
10 **A. No.**  
11 Q. Is that because you have no personal files  
12 relating to your --  
13 **A. I didn't really take any files home.**  
14 Q. I should have said earlier in the deposition,  
15 the court reporter can only take one of us at a time  
16 so --  
17 **A. Oh, sorry.**  
18 Q. -- despite the fact that I do it, and I bet you  
19 do it, we need to try not to interrupt each other.  
20 You testified that you did not review any  
21 files for purposes of producing documents for the  
22 plaintiffs in this case. Is that because you didn't  
23 have any files from your service as superintendent of  
24 the Indian River District?

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1 **A. I had files, but not on this case. And they're**  
2 **all in boxes. When I packed, I just packed things in**  
3 **boxes, but nothing on this case.**  
4 Q. And how do you know that there are no files on  
5 this case?  
6 **A. Most of them were personal things, you know,**  
7 **books and files of work that I had done myself, memos**  
8 **that I had written, letters that I had written for --**  
9 **normally I keep copies of some of the letters I've**  
10 **written and evaluations I've written on people, taking**  
11 **their names off in case that I ever need to use them**  
12 **in the future for my own work.**  
13 Q. Where are those files located?  
14 **A. In the garage of my house.**  
15 Q. What's the volume? One box, two box, one file,  
16 20 boxes?  
17 **A. One box, and then about, I would say, 15 boxes**  
18 **of books, of my professional books that I thought I**  
19 **might need.**  
20 Q. But in terms of pieces of paper, maybe a box of  
21 paper?  
22 **A. A box, um-hum.**  
23 Q. Did you have any notes or communications with  
24 attorneys in connection with this case in your files?

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1 **A. No, not that I can recall.**  
2 Q. When you left the Indian River School District  
3 in 2006, what did you -- well, let me take one step  
4 back.  
5 During your tenure as superintendent, did  
6 you maintain a file or files on this litigation?  
7 **A. Only when our previous lawyers started asking**  
8 **us for things, we gave whatever they wanted to them.**  
9 **And I worked on a book of -- and you probably have**  
10 **seen it -- a book of information about the different**  
11 **questions on the case. But I didn't keep a copy of**  
12 **that. It went to them and, I imagine, to you.**  
13 Q. Yeah, I'm not talking about what you've  
14 produced to the plaintiffs or to your own lawyers now,  
15 I'm just talking about when this matter, which has  
16 been characterized as 05-01 PL, was commenced, did you  
17 or someone at your direction open a file on this  
18 matter?  
19 **A. I don't have a file on this matter. If there's**  
20 **a file, it would be in the, you know, in the office.**  
21 **But we didn't keep...**  
22 Q. My questions are intentionally specific. Did  
23 you or someone at your direction at some point open a  
24 file on this litigation?

3 (Pages 6 to 9)

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1 **A. No.**  
2 Q. Okay. How long have you lived in Delaware,  
3 Miss Hobbs?  
4 **A. Ten years.**  
5 Q. So you came here to take this job?  
6 **A. Yes.**  
7 Q. Where did you live prior to that?  
8 **A. I lived in Arlington, Virginia, and also I had**  
9 **a home on the Bay near Annapolis in Edgewater.**  
10 Q. Before you became superintendent, did you hold  
11 any other positions in the district?  
12 **A. In this district? No.**  
13 Q. Yes. Describe for me your duties as  
14 superintendent of the district.  
15 **A. I'm responsible for the running of the**  
16 **district, the safety in the schools, the curriculum,**  
17 **the instruction of children. Predominantly that.**  
18 Q. Were you interviewed for the position of Board  
19 superintendent?  
20 **A. Yes.**  
21 Q. Do you know whether there were other  
22 candidates?  
23 **A. Yes, I believe that there were three finalists.**  
24 Q. When you were interviewed for the position --

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1 were you interviewed by Board members?  
2 **A. Yes.**  
3 Q. Did any Board member ask you about your  
4 position on school prayer?  
5 **A. No.**  
6 Q. Did anyone ask you about your position on  
7 religion in the schools?  
8 **A. No.**  
9 Q. Did anyone ask you for your position on prayer  
10 by the School Board to open its meetings?  
11 **A. No.**  
12 Q. What topics did the Board members ask you about  
13 in connection with your interview?  
14 **A. Let me see. Ten years ago, I believe -- it's**  
15 **hard to remember exactly the topics. But one was**  
16 **based on the national school goals, I do remember**  
17 **that. Another was my opinion of instruction, you**  
18 **know, for children. But probably based on the things**  
19 **that were happening 10 years ago in education were**  
20 **predominantly what the questions were.**  
21 Q. Do you recall any discussion at all during the  
22 interviews of the broad topic of religion in the  
23 schools?  
24 **A. No.**

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1 Q. Is the superintendent -- is it part of the  
2 superintendent's duties to attend School Board  
3 meetings?  
4 **A. Yes.**  
5 Q. And what is the purpose of the superintendent's  
6 attendance at the School Board meetings?  
7 **A. We're called the Board secretary -- I mean**  
8 **we're called secretary to the Board, along with the**  
9 **Board secretary. But I do not run the meetings. The**  
10 **Board president runs the meetings. I, when asked, I**  
11 **give my opinion on some things. Usually I have,**  
12 **either make a presentation if it's a new program that**  
13 **I want to, you know, have the Board accept. We had**  
14 **several new programs developed since I've been**  
15 **superintendent, so I would give a presentation or one**  
16 **of my staff members would give a presentation on that.**  
17 **Predominantly I'm fairly quiet at the**  
18 **School Board meetings most of the time. I don't speak**  
19 **up. It's their meeting, as I see it.**  
20 Q. What are your duties as secretary to the Board?  
21 **A. Actually, I read over the minutes, and**  
22 **generally most of the time I read over the minutes**  
23 **that Janet Hearn prepares for the Board. And I sign**  
24 **those minutes before they go to the Board members.**

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1 Q. Any other duties besides reading over the  
2 minutes and signing them?  
3 **A. Preparing the materials. I work on -- we send**  
4 **the Board a packet and before -- we send the Board a**  
5 **packet on Thursday, so usually Wednesday and Thursday**  
6 **we gather all the materials that they would need to**  
7 **read over before making decisions at the Board**  
8 **meetings.**  
9 Q. And you provide those materials to the Board  
10 members how?  
11 **A. We gather materials from the staff, if it's the**  
12 **budget or whatever it has to do with, and we collate**  
13 **the materials and we send it to them in a packet. And**  
14 **we send them, by our, one of our custodians, by**  
15 **courier on Thursdays, usually on Thursdays.**  
16 Q. Okay, so they're hand delivered?  
17 **A. Hand delivered, yes.**  
18 Q. For the meeting the following Tuesday?  
19 **A. Tuesday.**  
20 Q. And are you ultimately responsible for -- is  
21 that the Board, so-called Board package?  
22 **A. That's the Board packet, um-hum.**  
23 Q. Okay. Are you responsible ultimately for  
24 what's included in the Board package?

4 (Pages 10 to 13)



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1 **A. I -- we usually, you know, when we form the**  
2 **agenda, then we try to put the items in the packet**  
3 **that go along with the agenda, so I --**  
4 Q. Who forms the agenda?  
5 **A. I form the agenda with the president of the**  
6 **Board.**  
7 Q. And what was the process for that? Did you  
8 actually meet with the president?  
9 **A. What happens is -- no, we don't meet. We talk**  
10 **over the phone, and we talk over different items. And**  
11 **then probably, maybe on Tuesday before Thursday, it**  
12 **could be Wednesday, depends on how rushed we are and**  
13 **what we can do, we send him a draft copy of the**  
14 **agenda, both the Board president and vice president.**  
15 **And then if he has things that he would like to add,**  
16 **then we add those to them.**  
17 **Predominantly the agenda is pretty**  
18 **similar. It's a standard agenda and we fit the items**  
19 **under those, under the standard agenda.**  
20 Q. Yeah, let me explore that for just a minute. I  
21 have looked at some agendas. It looks to me like  
22 there are, there's a sort of standard agenda with line  
23 items, and then you would put sub items on the line  
24 items.

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1 **A. Right.**  
2 Q. Is that a fair summary?  
3 **A. That is a fair summary.**  
4 Q. Okay. And when you say, "We send a draft  
5 agenda to the president and the vice president,"  
6 sometimes witnesses modestly say "we" instead of "I,"  
7 sometimes you mean we and it's you and someone else.  
8 **A. I'm sorry, it's Janet Hearn.**  
9 Q. And you?  
10 **A. And me.**  
11 Q. And was that true throughout your tenure?  
12 **A. Yes.**  
13 Q. Okay. Let me explore the relationship between  
14 you and Ms. Hearn for a minute.  
15 You are secretary to the Board, but you  
16 don't actually draft minutes; is that correct?  
17 **A. Correct.**  
18 Q. And that's something you delegate to Ms. Hearn?  
19 **A. Yes. She was doing that I guess almost 10**  
20 **years before I even arrived.**  
21 Q. No point in changing at that point, right?  
22 **A. No, uh-uh.**  
23 Q. Okay. On the other hand, you reviewed the  
24 minutes once they were drafted; is that correct?

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1 **A. Yes.**  
2 Q. Okay. So that when you signed the minutes, you  
3 had satisfied yourself with your own review of those  
4 minutes that they accurately reflected what happened  
5 at the meeting?  
6 **A. That was generally my practice, to read over**  
7 **the minutes before they went out in the packet.**  
8 Q. Okay.  
9 **A. And sign them.**  
10 Q. And that was certainly your intention?  
11 **A. Right.**  
12 Q. You would not -- you would -- let's just say  
13 you would prefer not to sign the minutes as accurate  
14 if you hadn't reviewed them first?  
15 **A. True.**  
16 Q. Okay.  
17 **A. There's sometimes I was more rushed than**  
18 **others.**  
19 Q. Can you recall any instance in which you signed  
20 them without looking at them?  
21 **A. No. I would look at them.**  
22 Q. All right.  
23 **A. You know, unless I was ill or out of town, and**  
24 **then perhaps the assistant superintendent would read**

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1 **over them or write the memo to the Board.**  
2 Q. Before you signed the minutes, you also, the  
3 Board members would also have been given an  
4 opportunity to review them and make comments, correct?  
5 **A. No. Not usually.**  
6 Q. So --  
7 **A. They went out in their packet, and they**  
8 **reviewed them at the next meeting. And added, you**  
9 **know, made an amendment to them if needed, if they**  
10 **found something incorrect in them.**  
11 Q. Let me just, I'm going to just pick an  
12 arbitrary date. It's not arbitrary, it's a date that  
13 is at issue in this case. On August 24th, 2004, there  
14 was a board meeting, was a regular board meeting.  
15 **A. If you say so.**  
16 Q. It's been referred to in, throughout testimony  
17 here as the big meeting at which many hundreds of  
18 people showed up at Frankford Elementary School. Do  
19 you recall that?  
20 **A. Yes, I do.**  
21 Q. All right. And am I correct that Ms. Hearn sat  
22 through that board meeting and did whatever she does  
23 to get ready to prepare the notes, the minutes and  
24 then she drafted minutes, correct?

5 (Pages 14 to 17)

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1 **A. Yes, I believe so.**  
2 Q. Okay. And then Ms. Hearn gave you the draft,  
3 correct?  
4 **A. Before it went out to the next meeting?**  
5 Q. Yes.  
6 **A. That's usually the procedure.**  
7 Q. Okay. Would she usually also give the minutes  
8 to the assistant superintendent, Mr. Savage?  
9 **A. Not normally.**  
10 Q. Okay. Your normal practice would then have  
11 been to review Ms. Hearn's draft?  
12 **A. Yes.**  
13 Q. All right. And then the draft would be  
14 included in the Board package?  
15 **A. For the next meeting.**  
16 Q. Yes.  
17 **A. Yes. Unless she was behind minutes, and then,**  
18 **you know, we might put two or three minutes in**  
19 **together, so I'm not sure.**  
20 Q. Let's just assume she was not behind.  
21 **A. Okay.**  
22 Q. Okay? So Ms. Hearn prepares the draft, you  
23 look at it, it would then be included in the Board  
24 package for the next meeting.

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1 **A. Correct.**  
2 Q. Okay. Am I correct that you did not sign those  
3 draft minutes before they were put in the Board  
4 package?  
5 **A. I normally, my usual practice is to sign them**  
6 **before they're run off for the Board package. That's**  
7 **my normal practice.**  
8 Q. Oh, really. So you would affirm their accuracy  
9 before the Board had an opportunity to make comments  
10 or suggestions?  
11 **A. Yes.**  
12 Q. All right. If a Board member had comments or  
13 suggestions, what would you do, amend the minutes and  
14 re-sign them?  
15 **A. They're amended right in front of the entire**  
16 **meeting. They're -- they say, you know, I find an**  
17 **error and they want it corrected and then they vote --**  
18 **they vote on the minutes as amended at the meeting.**  
19 Q. Okay.  
20 **A. If they have no corrections, they just vote on**  
21 **the minutes.**  
22 Q. So they would -- somebody would just  
23 interlineate whatever corrections they wanted to make?  
24 **A. Yes.**

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1 Q. And then they would vote to approve them?  
2 **A. Right.**  
3 Q. So you wouldn't even have to re-sign them?  
4 **A. No.**  
5 Q. All right.  
6 MR. GOSSELIN: Only lawyers say  
7 "interlineate," by the way. You will not hear that in  
8 normal conversation.  
9 MR. ALLINGHAM: No, my six-year-old says  
10 that too.  
11 You know, that's actually true. There's  
12 probably a perfectly good English word for it, but I  
13 don't know it anymore.  
14 MR. GOSSELIN: "Writing it in."  
15 BY MR. ALLINGHAM:  
16 Q. The superintendent does not vote at School  
17 Board meetings, correct?  
18 **A. No.**  
19 Q. All right. And ties are not broken by vote of  
20 the superintendent, they're broken by how? How are  
21 ties broken?  
22 **A. Well, if they're voted down, or they take no**  
23 **action, there's no objection. They can reconsider**  
24 **their motion and vote again, is what they normally do.**

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1 Q. So a 5/5 vote would be treated as a no vote?  
2 **A. Yes, it wouldn't pass.**  
3 Q. Okay. Does the superintendent perform any  
4 oversight roles for the Board?  
5 **A. Could you explain, please?**  
6 Q. Separate from your responsibilities in the  
7 district, does the superintendent have any  
8 responsibilities directly to the Board to assist it in  
9 the performance of its duties?  
10 **A. I don't assist the Board in the performance of**  
11 **their duties. My job would be more like if they pass**  
12 **policies, then I'm to see that, you know, they're**  
13 **distributed through the district and the district**  
14 **understands them.**  
15 Q. Okay. I take it from your description of the  
16 agenda preparation process that you as superintendent  
17 have the power to place items on the agenda.  
18 **A. Yes, I can.**  
19 Q. Okay. I take it also from your description  
20 that the president has the power to place items on the  
21 agenda.  
22 **A. Yes.**  
23 Q. Okay. And in the course of your ten years or  
24 so of superintendent, do you recall instances in which

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1 the president placed items on the agenda?  
2 **A. I'm sure that in the ten years the different**  
3 **presidents have placed items on the agenda. Specific**  
4 **ones, I wouldn't be able to say.**  
5 Q. That's helpful to me. So without knowing what  
6 they are, you're confident that from time to time  
7 presidents have placed items on the agenda?  
8 **A. Right, and people have called to be on the**  
9 **agenda; and you know, they put in writing they want to**  
10 **be on the agenda, we put people on the agenda.**  
11 Q. How does that work?  
12 **A. Normally they -- if they're speaking in public**  
13 **comment, they don't need to be, get permission to be**  
14 **on the agenda. But if they want a topic discussed,**  
15 **they usually write to be put on the agenda.**  
16 Q. So if a member of the public wanted to discuss,  
17 I don't know, new goalposts at the Sussex Central  
18 football field, and they wrote to the superintendent  
19 and said, "I'd like to have a discussion of this," it  
20 would be your job to figure out -- and I guess the  
21 Board president's job to figure out whether that issue  
22 should be put on the agenda?  
23 **A. Yes.**  
24 Q. And was it your practice typically if somebody

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1 from the public asked to have an agenda item to put it  
2 on the agenda?  
3 **A. Yes.**  
4 Q. Okay. If a Board member neglects his or her  
5 duty or acts outside his or her authority, does the  
6 superintendent have any authority to take action  
7 against that Board member?  
8 **A. No.**  
9 Q. If you believed a Board member was acting  
10 against the best interests of the district, what would  
11 you do? What would you have done?  
12 **A. I would share that with the president of the**  
13 **Board, and perhaps -- and the vice president.**  
14 Q. For matters that are not covered by Board  
15 policy, does the superintendent have discretion to act  
16 in her best judgment for the interests of the  
17 district?  
18 **A. Could you give me an example?**  
19 Q. Yes, where a decision is -- where the  
20 superintendent or the district is confronted with a  
21 decision that is not covered by a Board policy, does  
22 the superintendent have discretion to act in her best  
23 judgment for the district's interest?  
24 **A. I could act in the case of emergency about**

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1 **that, but I would also bring it back to the Board if**  
2 **the Board needs a policy, and suggest that they take a**  
3 **look at creating a policy for that.**  
4 Q. That was the point of my question. If, if you  
5 found that there was an area that you were required to  
6 act in using your own discretion because there was no  
7 Board policy, would you raise that issue with the  
8 Board and suggest that the Board consider a policy?  
9 **A. Yes, I would.**  
10 Q. Okay. And I take it then that it's part of  
11 your, the superintendent's responsibilities, as you  
12 understood them, to suggest areas for consideration of  
13 Board policies to the Board?  
14 **A. Actually, I don't recall that I had to ever do**  
15 **that, to recommend a policy or take an action.**  
16 **Normally my actions would be, you know, dealing with**  
17 **personnel or school safety or things like that.**  
18 Q. Had you ever functioned as a superintendent at  
19 any other district before you joined the Indian River  
20 District?  
21 **A. No.**  
22 Q. What was your job position prior to your taking  
23 that job?  
24 **A. I was a regional director in Charles County,**

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1 **Maryland.**  
2 Q. And I'm sorry for my ignorance, what does a  
3 regional director do?  
4 **A. The county was divided into three areas, and I**  
5 **was responsible for one of the areas, predominantly in**  
6 **instruction because I didn't, you know, I was one of**  
7 **the three directors. I wasn't sitting with the**  
8 **superintendent and the Board of Charles County; you**  
9 **know, sitting in the sidelines.**  
10 Q. Just so I understand the chain of command here,  
11 there were three -- there was one director for each of  
12 the three regions, and am I right that you reported in  
13 that position to the superintendent?  
14 **A. Yes.**  
15 Q. All right. But in that position you did not  
16 attend School Board meetings, for example?  
17 **A. I attended them, but I was more or less in the**  
18 **audience of the School Board.**  
19 Q. And did that --  
20 **A. And mainly to do presentations on new programs**  
21 **and new instructional programs when I was asked to**  
22 **speak in front of that board.**  
23 Q. How long did you work in that district?  
24 **A. Two years in Charles County.**

7 (Pages 22 to 25)



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1 Q. And before that?  
2 **A. Prince Georges County.**  
3 Q. How long in that position?  
4 **A. Twenty-eight.**  
5 Q. In the 30 years that you served in those two  
6 districts in Maryland, did those district -- did those  
7 boards open their meetings with a prayer?  
8 **A. I don't recall. I don't believe Prince Georges**  
9 **did. But I'm not sure about Charles, tell you the**  
10 **truth.**  
11 Q. And just refresh me, the most recent one was  
12 Prince Charles?  
13 **A. Yeah, it was Charles. But the meetings were,**  
14 **would go on so long, from 8:00 in the morning, and I**  
15 **wasn't always there in the beginning, so I really**  
16 **can't tell you that.**  
17 Q. Okay. In the earlier district where you served  
18 28 years, you don't recall that they did open their  
19 meetings with a prayer?  
20 **A. No, I don't.**  
21 Q. Did you think the meetings were conducted in a  
22 solemn and appropriate manner?  
23 **A. Yes.**  
24 Q. Was it among your duties to make

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1 recommendations to the School Board with respect to  
2 expenditures like field trips?  
3 **A. No, I never made any recommendations about**  
4 **field trips.**  
5 Q. Did you bring requests for expenditure of funds  
6 on field trips to the Board as superintendent?  
7 **A. We don't bring requests for expenditures. It**  
8 **would be more -- we had the policy on where -- if**  
9 **field trips were on Sundays, the Board needed to**  
10 **approve them, or overnight on weekends or so many**  
11 **miles outside of the Delmarva Peninsula. And that**  
12 **became more of a need when, you know, all the safety**  
13 **issues and the terrorist issues, we got more concerned**  
14 **about how far our children were traveling.**  
15 Q. What was the reason for the Board's being  
16 involved in approving a field trip on a Sunday?  
17 **A. I don't recall. That was here before I came**  
18 **here. It was just something we did.**  
19 Q. You never discussed that at the Board meetings?  
20 **A. No.**  
21 Q. Do you recall field trips on Sundays being  
22 proposed to the Board for approval?  
23 **A. It was mostly overnight trips that would take**  
24 **us into Sunday, I guess.**

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1 Q. Do you recall any discussion on any of those  
2 field trips about the fact that the field trip would  
3 have children away from home on Sunday morning because  
4 of the overnight?  
5 **A. Not on a field trip, no.**  
6 Q. You said, "Not on a field trip, no." Do you  
7 recall such a discussion in some other context?  
8 **A. I believe they wanted like sporting events to**  
9 **start after, afternoon, so if children wanted to**  
10 **attend church, they could, I guess.**  
11 Q. They, the Board members?  
12 **A. Um-hum.**  
13 Q. And which of the Board members do you recall  
14 saying that?  
15 **A. I don't recall who would say that.**  
16 Q. Did that come up in the context of a proposal  
17 to schedule a sporting event before noon?  
18 **A. I believe that there's a possibility that over**  
19 **the 10 years that was a conversation at times.**  
20 Q. And that -- and the response to it was that one  
21 or more of the Board members said, "We don't want to  
22 do that. We want to make sure everyone can go to  
23 church"?  
24 **A. No one said that that I heard.**

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1 Q. Words or substance.  
2 **A. No.**  
3 MR. GOSSELIN: Register my belated  
4 objection to the form of that question. It took me a  
5 minute to chuckle and then get it out.  
6 Q. Well, responding to that suggestion, some Board  
7 member, your earlier answer was, suggested that they  
8 would prefer not to have sporting events start before  
9 noon on Sunday, correct?  
10 **A. I believe that's the general belief, that...**  
11 Q. Okay. And how did you form that belief? You  
12 heard one or more Board members express that belief?  
13 **A. I think it's in the, that was what, why those**  
14 **things came before the Board.**  
15 Q. And when you say that was why those things came  
16 before the Board, what do you mean by that?  
17 **A. You know, like a field trip or use of a**  
18 **facility on Sunday, you know, or for a soccer game or**  
19 **something like that.**  
20 Q. And so what did the Board members say, as you  
21 recall, as to their reasons for addressing that  
22 request?  
23 **A. I don't recall them specifically saying**  
24 **anything about that. I think that was sort of a**

8 (Pages 26 to 29)



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1 **long-term thing that people just understood.**  
2 Q. Well, and I, in this question I just want your  
3 understanding, not what other people understood, which  
4 is harder to divine. As superintendent you understood  
5 that the Board members did not want events to take  
6 place before noon on Sundays --  
7 **A. Yes.**  
8 Q. -- so that students would have the opportunity  
9 to go to church. Correct?  
10 **A. Yes.**  
11 MR. GOSSELIN: Objection.  
12 Q. Did building management fall within your  
13 responsibilities?  
14 **A. Yes, I mean as far as the buildings being clean**  
15 **and orderly, yes.**  
16 Q. Um-hum. How about decisions on materials or  
17 contractors or any aspect of improvements to buildings  
18 or facilities?  
19 **A. Usually they came before a Buildings and**  
20 **Grounds Committee and then to the Board for**  
21 **contractors.**  
22 Q. And if you know, how would a question like that  
23 be presented to the Buildings and Grounds Committee?  
24 How would it come to them? Through you?

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1 **A. Normally it would be our renovation -- we have**  
2 **a big renovation project, which was approved by the**  
3 **public. So when we hired a manager to manage that,**  
4 **they, you know, came before the Board and were**  
5 **interviewed by the Board and selected.**  
6 Q. All right. And then that building manager,  
7 project manager would bring issues directly to the  
8 Buildings and Grounds Committee?  
9 **A. Normally they would bring them first to the**  
10 **Buildings and Grounds Committee. The Buildings and**  
11 **Grounds Committee would suggest whether they needed to**  
12 **come before the Board.**  
13 Q. Okay. I asked you whether you sat with the  
14 Board during its meetings. Do you also sit with the  
15 Board during executive sessions?  
16 **A. Yes.**  
17 Q. And also during special meetings?  
18 **A. Yes.**  
19 Q. Do you attend policy -- sorry. Do you attend  
20 committee meetings?  
21 **A. No. Oh, I'm sorry. I do attend the buildings**  
22 **and grounds meeting and the finance meeting, committee**  
23 **meetings. They are the two I attended.**  
24 Q. But not the Policy Committee meetings?

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1 **A. No.**  
2 Q. Miss Hobbs, am I right that -- this goes back  
3 to the minutes for a moment. Am I right that if you  
4 found an inaccuracy in the minutes, you would not  
5 certify that they were accurate, but rather, would ask  
6 Miss Hearn to make whatever correction needed to be  
7 made?  
8 **A. Yes.**  
9 Q. What did you understand the purpose of the  
10 minutes to be?  
11 **A. The purpose of the minutes would be to make**  
12 **sure we got down the motions that the Board and the,**  
13 **and the business of the Board, that they wanted to**  
14 **conduct. That would be the purpose of the minutes, to**  
15 **keep a record of, for the public of what business**  
16 **occurred at the Board meeting.**  
17 Q. And to, I take it to have an accurate record of  
18 actions actually taken by the Board?  
19 **A. Take -- yes.**  
20 Q. Minutes are posted on the district's Web site.  
21 Are you aware of that?  
22 **A. Yes.**  
23 Q. And are those minutes identical to the ones you  
24 certify, except that they don't have your signature at

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1 the bottom?  
2 **A. They're posted after the Board approves them.**  
3 Q. So they should be identical?  
4 **A. Yeah.**  
5 Q. You have to answer orally.  
6 **A. Yes.**  
7 Q. Okay. In your 10 years or so here in Indian  
8 River, did you ever invite people to the Board  
9 meetings?  
10 **A. I invited children who won an award or teachers**  
11 **who wrote a grant to be recognized if they wanted to**  
12 **come.**  
13 Q. And with respect to the children who won an  
14 award, was it typical that you -- and I'm talking now  
15 about the academic school year board meetings, was it  
16 typical that children were invited to receive awards  
17 or to get recognition?  
18 **A. What would happen, because you can't keep track**  
19 **of the whole district, the principal, if they felt**  
20 **that a child had received an honor, somewhere else in**  
21 **the district or outside of the district, and they**  
22 **should be recognized at the Board meeting, they either**  
23 **called my office and said they should be recognized,**  
24 **or we then later had a form that they could fill out**

9 (Pages 30 to 33)

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1 so we wouldn't miss children if they would be  
2 recognized, or should be recognized. And they were  
3 recognized for, you know, athletics, for academics,  
4 for outside poster contests, anything usually at the  
5 state or national level.  
6 Q. And this was not intended to be restricted to  
7 athletics, I take it?  
8 A. No.  
9 Q. Would it be fair to say that the hope was to  
10 cast a net broad enough to encompass all areas of  
11 achievement that the students might participate in?  
12 A. Anything that was at the state or national  
13 level that a student participated in, to recognize  
14 them and say thank you for, you know, trying that or  
15 doing that.  
16 Q. There's been some testimony from other  
17 witnesses that you might have been instrumental in  
18 expanding this practice of trying to recognize  
19 achievements by the students. Is that correct?  
20 A. Yes.  
21 Q. Okay. Tell me why you did that. Well, first  
22 of all, tell me what changes you implemented in that  
23 area.  
24 A. I invited people who, children or adults who

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1 had made contributions to the district because I think  
2 they should be recognized. I think that's a part of a  
3 community, that we say great job and thank you. Some  
4 of our teachers had written grants for 5 and \$6,000,  
5 and I thought they should be thanked publicly.  
6 Q. How does that grant process work? Do teachers  
7 have to get authorization from the district, from you  
8 or from someone at the district before they submit the  
9 grant application?  
10 A. Actually, they can write the grant. MBNA, who  
11 is no longer in business, or in business with us, I  
12 should say, offered teachers grants. And they could  
13 apply to MBNA for the grants. And that's where we got  
14 most of our grant money. And so they could do it  
15 directly and could ask for help from the district if  
16 they needed it, to write the grant or ideas for the  
17 grant.  
18 Q. I take it from your earlier answer that you  
19 thought that the district benefited directly or  
20 indirectly from recognizing teachers who had  
21 successfully applied for grants.  
22 A. I just wanted to say thank you to people.  
23 Q. And what I was trying to get at was, as a  
24 manager, as superintendent, you believed that the

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1 district would benefit by a practice of thanking  
2 people for achievements on behalf of the district,  
3 correct?  
4 A. Yes, I think that's fair.  
5 Q. Okay. And then coming over to the, to the  
6 recognition of the children, what benefit did you  
7 think that the district would achieve by recognizing  
8 achievements of children within the district?  
9 A. The children are what we're all about. So I  
10 wanted to say thank you and recognize the children.  
11 Q. Did you think the children would benefit from  
12 that recognition?  
13 A. I did. I think the parents enjoyed the fact  
14 that they were recognized, and normally, in the past  
15 few years I sent them a congratulatory letter with a  
16 picture of them standing in front of the Board.  
17 Q. Oh, really?  
18 A. Um-hum.  
19 Q. And I guess that was to memorialize the  
20 recognition?  
21 A. Well, I don't know. I'm a first grade teacher  
22 at heart.  
23 Q. What does that mean?  
24 A. That I like recognizing children. I think it's

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1 important. This is, this is what we do.  
2 Q. From the children's perspective, did you  
3 understand that they viewed it as an honor to be  
4 recognized by the School Board?  
5 A. They could come and be honored or they might  
6 not, or their principal might accept the award and  
7 they could stay home. There was no obligation for  
8 them to come to a Board meeting.  
9 Q. That wasn't my question. As a superintendent  
10 who began as a first grade teacher, did you understand  
11 that the children would view it as an honor to be  
12 recognized by the School Board?  
13 A. I would think they would.  
14 Q. And it's to memorialize that honor that you  
15 sent them the letter and the picture, correct?  
16 A. I wouldn't go that far.  
17 Q. Who was in the picture?  
18 A. Usually it was the children, their parents when  
19 they got their certificate, so it would be the Board  
20 president and myself.  
21 Q. So you had a process in place, at least for the  
22 last few years, in which there was a photographer  
23 available to take a picture of each of the children  
24 who was being -- each of the children who were being

10 (Pages 34 to 37)

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1 recognized?  
2 **A. Right.**  
3 Q. Correct?  
4 **A. Yes.**  
5 Q. Okay. And was that a district employee, the  
6 photographer, or someone else?  
7 **A. District employee.**  
8 Q. I take it not a full-time photographer then?  
9 **A. No.**  
10 Q. Okay.  
11 **A. We don't have that luxury.**  
12 Q. Understood. I looked at the minutes that we  
13 were given, or that we were able to get off the Web  
14 site, to get a sense of what sorts of achievements the  
15 Board chose to recognize. And I certainly saw a  
16 number of state and national awards that children were  
17 recognized for. I saw some recognition for, simply  
18 for participation from time to time. Was that also  
19 something that was done?  
20 **A. I would imagine, if you saw it. We tried to**  
21 **make it more of an award or national participation or**  
22 **state participation. But they may have participated**  
23 **in a, you know, a team that won, sports team that won.**  
24 Q. And the process by which invitations were

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1 extended during -- that you established during your  
2 tenure as superintendent was to ask the principals at  
3 each of the schools to suggest children who could be  
4 invited for recognition and then the district would  
5 extend the invitation?  
6 **A. Normally the principal extended it and said,**  
7 **you know, we will -- we didn't send them a written**  
8 **formal invitation to the Board, no.**  
9 Q. Okay. What was the purpose then of having the  
10 principals tell you?  
11 **A. I had to put it on the agenda, so I had to know**  
12 **what names were going on the agenda.**  
13 Q. Okay. And the awards on the agenda, was that a  
14 single line item or did you have subline items, if you  
15 will, that identified the children who would be  
16 getting recognition?  
17 **A. For instance, if it was Odyssey of the Mind,**  
18 **you know, if they won a national award, we would list**  
19 **the children's name under that.**  
20 Q. On the agenda?  
21 **A. On the agenda.**  
22 Q. And I'm sort of feeling my way here. But was  
23 there a distinction between, you know, a national  
24 award like the children recently got for Odyssey of

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1 the Mind and, I don't know, the Fifth Grade Yell Club,  
2 for purposes of whether they'd be specifically listed  
3 on the agenda?  
4 **A. Not really.**  
5 Q. Was it your practice to, if a child was going  
6 to receive recognition, to put that child's name on  
7 the agenda?  
8 **A. Yes.**  
9 Q. Okay. Now, the minutes reflect the recognition  
10 of the child at the meeting; that is to say, the Board  
11 then recognized John Smith for his participation in  
12 the Odyssey of the Mind championship team. Did you  
13 have a practice, one way or another, as to whether the  
14 minutes reflected the child's being recognized,  
15 whether they were actually there or not?  
16 **A. No, I don't think the minutes ever reflected**  
17 **that. Not that I recall.**  
18 Q. Okay. I asked you some questions earlier about  
19 your having had some influence on the expansion of the  
20 practice of recognizing children for their  
21 achievements. Do you know what the practice was prior  
22 to your coming here to Indian River in 1996?  
23 **A. No.**  
24 Q. The practice of inviting students for

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1 recognition at Board meetings, was that something that  
2 you, and your belief that that was beneficial for the  
3 kids and for the district, did you have any occasion  
4 to discuss that with Board members at your interview?  
5 **A. I don't believe I did.**  
6 Q. I asked you earlier a general question about  
7 inviting people to the Board meetings. Do you recall  
8 ever having invited children to the Board meetings for  
9 any purpose other than to receive recognition for  
10 their achievements?  
11 **A. We sometimes invited them to entertain.**  
12 Q. So a musical group might perform for the Board?  
13 **A. Yes.**  
14 Q. All right. And would that be part of a --  
15 **A. I don't recall that we reflected that on the**  
16 **agenda or the minutes. It would be normally just a**  
17 **group performing and we would say who it was**  
18 **performing.**  
19 Q. Okay, so you might have, I don't know, I'm just  
20 making this up, but you might have the sixth grade  
21 chorus come in and do a song or set of songs for the  
22 Board members, that might not be on the minutes?  
23 **A. Right.**  
24 Q. All right. And who would make that

11 (Pages 38 to 41)



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1 introduction -- sorry, who would make that invitation  
2 to the kids?  
3 **A. I would.**  
4 Q. All right. How did you, how did you make the  
5 decision whom to invite and how often?  
6 **A. Normally it would be a group that I heard that**  
7 **when I was going around the district, and I thought,**  
8 **you know, these are great kids. I think the public**  
9 **should hear them.**  
10 Q. It's a different kind of recognition for the  
11 kids as well, right?  
12 **A. Yeah. I -- I, the steel band, because they**  
13 **started with like two drums and they turned out to be**  
14 **a steel band, and I thought that's growth, you know.**  
15 **Let's take a look at them. They were playing all over**  
16 **the community.**  
17 Q. How -- do you have any sense of how frequently  
18 you would invite a group, group of kids to perform for  
19 the Board at meetings?  
20 **A. Once a year. Sometimes I invited the Odyssey**  
21 **of the Mind group to present their problem that they**  
22 **won a national, so when they came, so once a year,**  
23 **maybe twice if Odyssey of Mind won during that year.**  
24 Q. So maybe once a year for some kind of

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1 performance of the arts, and then twice if the Odyssey  
2 of the Mind team won?  
3 **A. Yeah, could be. Some years not, not at all.**  
4 Q. All right. As a superintendent, having been  
5 grounded in first grade teaching, would you agree with  
6 me that a member of such a group would feel an  
7 obligation to the group to try to attend that Board  
8 meeting and perform their part in the performance?  
9 MR. GOSSELIN: Objection.  
10 **A. I wouldn't know that. I didn't -- I wouldn't**  
11 **know that.**  
12 Q. All right. So we have children attending the  
13 meetings to receive recognition from the Board, we  
14 have children attending meetings to provide  
15 performances of one kind or another to the Board. Did  
16 you extend invitations to anybody else in any  
17 context --  
18 **A. Community members have, you know, if they**  
19 **donated coats to poor children, we would invite them**  
20 **to say thank you.**  
21 Q. And that was to say thank you and to recognize  
22 them for a contribution in the same way that you would  
23 try to recognize a teacher who had a successful grant?  
24 **A. Yes.**

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1 Q. Did you -- can you think of any other context  
2 in which you invited children to attend Board  
3 meetings?  
4 **A. Not that I can recall.**  
5 Q. I have seen an agenda item for student  
6 government representatives. Did you invite student  
7 government representatives to address the Board?  
8 **A. I didn't personally invite them. That had been**  
9 **going on, I believe, before I even came here for them**  
10 **to give a report on the schools.**  
11 Q. Do you know how the student government  
12 representatives knew that they were supposed to show  
13 up at the Board meeting and make a presentation?  
14 **A. It was a rotating basis, from each high school.**  
15 Q. Yes.  
16 **A. Just the high school students. So normally, in**  
17 **September, they don't get invited because they haven't**  
18 **gotten -- or they aren't on the agenda because they**  
19 **haven't gotten formed, but their principal sees the**  
20 **agenda and knows that they're on the agenda to share**  
21 **activities.**  
22 Q. Oh, okay. So the -- just to go back to the  
23 agenda process for a minute. You draft an agenda, you  
24 send it to the Board president and vice president,

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1 they either add things or don't and tell you to go  
2 ahead and send it out in the Board package?  
3 **A. Um-hum.**  
4 Q. And then you, in addition to sending it to the  
5 Board members in the Board package, you also send it  
6 to the school principals?  
7 **A. Yes.**  
8 Q. And would that be all the school principals or  
9 just the school principals whose kids were being  
10 invited to do something at the meeting?  
11 **A. No. When we post the agenda, which is usually**  
12 **a week before the meeting, we send it to the schools**  
13 **so they can post it also. So every school gets one.**  
14 Q. Every school gets one, okay. And your  
15 assumption is that the principal will look at the  
16 agenda and if they have a child being invited to do  
17 something, they'll tell the child they've got to be  
18 there?  
19 **A. I would hope so.**  
20 MR. ALLINGHAM: Okay, let's change the  
21 tape.  
22 THE VIDEOGRAPHER: Going off the record at  
23 approximately 10:05 a.m.  
24 (A brief recess was taken.)

12 (Pages 42 to 45)

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1 THE VIDEOGRAPHER: Back on the record at  
2 approximately 10:12 a.m.  
3 BY MR. ALLINGHAM:  
4 Q. I was asking you before the break about the  
5 superintendent's duties. Is it correct that you have  
6 a role in carrying out the School Board's policies?  
7 **A. Yes.**  
8 Q. Could you describe it for me briefly?  
9 **A. When they pass a policy, each of the schools**  
10 **has a policy book. And we make sure that the schools**  
11 **receive the policy. It's sent out to all the schools**  
12 **with a little note at the bottom of it that says they**  
13 **received it and put it in their policy book. Any**  
14 **policies that needed to be discussed for**  
15 **implementation would be discussed at a principal's**  
16 **meeting.**  
17 Q. Ultimately is it the superintendent's  
18 responsibility or the Board's responsibility to  
19 enforce its policies?  
20 **A. I would say it was the management's**  
21 **responsibility, the superintendent and the staff.**  
22 Q. In carrying out your role in enforcing the  
23 Board's policies, do you act on your own, or do you  
24 act at the direction of the Board, or both?

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1 **A. Or both, I mean actually when the policies are**  
2 **written, I review them with the principals. But it**  
3 **would be me at my meeting. So...**  
4 Q. And the process of enforcing policies, does  
5 that exclusively involve you or does it sometimes as  
6 well involve the Board as a body?  
7 **A. If someone would violate a policy?**  
8 Q. Yes.  
9 **A. I would probably most likely in most cases deal**  
10 **with that person and then bring them in front of the**  
11 **Board if it was a serious violation of policy.**  
12 Q. In performing your duties as superintendent,  
13 did you act on your own authority, or did you act at  
14 the Board's direction, or both?  
15 **A. Both.**  
16 Q. All right. And am I correct then that it would  
17 depend on the subject matter, the area that you were  
18 acting in, as to whether you acted on your own  
19 authority or whether you acted at the Board's  
20 direction?  
21 **A. Yes. But I always communicated with the Board**  
22 **about, for instance, if a teacher violated a policy,**  
23 **it would be investigated and then brought before the**  
24 **Board.**

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1 Q. It sounds like there was a, there was a process  
2 for investigating possible violations of policy. Is  
3 that, is that a fair understanding?  
4 **A. Yes, particularly personnel issues.**  
5 Q. And what was that, what was that process?  
6 **A. If a person was not acting according to policy**  
7 **in dealing with children in the classroom, usually the**  
8 **personnel director or the principal would start the**  
9 **investigation, the personnel director would go in to**  
10 **more serious investigations about this. Or we're**  
11 **directed by certain state law that we would have to**  
12 **call child abuse, you know, have the state trooper**  
13 **investigate if a teacher was accused of doing anything**  
14 **wrong with a child, they would be our more serious**  
15 **things.**  
16 Q. And whether it was done by the personnel  
17 director or the principal, they would be operating  
18 under your supervision, correct?  
19 **A. Yes, I would know about it.**  
20 Q. And once the investigation was completed, was  
21 it your practice to report the results of the  
22 investigation to the Board?  
23 **A. Yes, and make a recommendation if it had -- if**  
24 **it was dealing with personnel.**

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1 Q. Yes. And then the Board would act on your  
2 recommendation, correct?  
3 **A. Yes.**  
4 Q. All right. How did, over the course of your 10  
5 years, possible violations of policy come to your  
6 attention? And if it's more than one way, tell me all  
7 the ways that they came to your attention.  
8 **A. I would say it would come to my attention**  
9 **through a principal sharing information with us, a**  
10 **parent concern, another teacher concern.**  
11 Q. So typically, you would learn of a possible  
12 policy violation from someone bringing it to your  
13 attention?  
14 **A. Yes.**  
15 Q. And that could be a parent, a teacher or a  
16 principal?  
17 **A. Um-hum.**  
18 Q. All right. Did you ever get complaints  
19 directly from students?  
20 **A. Not that I recall.**  
21 Q. When you act at the Board's direction, how do  
22 you get the Board's direction; that is, how is it  
23 communicated to you?  
24 **A. Usually it's through the president of the**

13 (Pages 46 to 49)

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1 **Board.**  
2 Q. Okay. Did you understand that it was through  
3 the president that you were supposed to get your  
4 instructions from the Board?  
5 **A. Yes.**  
6 Q. Okay. So that if an individual Board member  
7 came to you and asked you to do something, what would  
8 your response be?  
9 **A. Well, usually if it was something that I was**  
10 **really going to act on, we would need a vote of the**  
11 **Board to, to say that I was acting on. I didn't run**  
12 **out and do what every 10 Board members wanted me to do**  
13 **or else I'd be running in circles.**  
14 Q. So the appropriate -- the proper procedure was  
15 for the Board's directions to be funneled through the  
16 president to you, correct?  
17 **A. To me or at a Board meeting when they were all**  
18 **sitting there, if they needed to tell me something**  
19 **that I should look into.**  
20 Q. Okay.  
21 **A. They would do it that way.**  
22 Q. So you would know that it was the Board's  
23 direction, either because it came from the president,  
24 or because you personally observed that they voted to

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1 do something?  
2 **A. Right.**  
3 Q. Okay. Was it your, part of your  
4 responsibilities as superintendent to retain law firms  
5 or lawyers to assist the Board in its, in its duties?  
6 **A. Actually, the Board had a Board lawyer who was**  
7 **here when I was here, and once, I think one other time**  
8 **we put out a request for a proposal for other Board**  
9 **lawyers. And the Board would interview the Board**  
10 **lawyer.**  
11 Q. Okay.  
12 **A. And, and, you know, hire the Board lawyer.**  
13 Q. Okay. So there's a regular Board lawyer who is  
14 in place to respond to routine requests for legal  
15 advice; is that right?  
16 **A. Right.**  
17 Q. Okay. And the retention of that lawyer was  
18 done by the Board itself?  
19 **A. Yes.**  
20 Q. Okay. And that lawyer, during most of your  
21 tenure, was Mr. Griffin, correct?  
22 **A. Yes.**  
23 Q. Did -- was it Mr. Griffin throughout your  
24 tenure?

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1 **A. Yes.**  
2 Q. Okay. The request for proposals, did that come  
3 in 2006?  
4 **A. I believe they were discussing that as I left.**  
5 Q. Okay. You were not involved in the process of  
6 a request for proposal for a new Board lawyer?  
7 **A. No. One other time during my tenure there was**  
8 **another time that I think they requested just to see**  
9 **if lawyers were interested in the school district, but**  
10 **I can't recall what year that was.**  
11 Q. Before 2000, after 2000?  
12 **A. I can't recall, I'm sorry.**  
13 Q. Did someone express dissatisfaction with  
14 Mr. Griffin's performance?  
15 **A. Not in particular. They just talk about, you**  
16 **know, opportunities to see if other people are**  
17 **interested in the position.**  
18 Q. The Board lawyer's compensation, is that on a  
19 retainer basis, hourly basis, some combination  
20 thereof?  
21 **A. He bills us for hours that he -- that we use**  
22 **the lawyer for. So...**  
23 Q. There's no annual retainer or anything like  
24 that?

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1 **A. Not that I recall. There might have been one**  
2 **in the beginning. I don't...**  
3 Q. All right. What about a situation where the  
4 Board determines to hire a lawyer other -- or to  
5 consider hiring a lawyer other than the Board's  
6 attorney, how does that process work?  
7 **A. We've never done that. That I know of, I**  
8 **should say.**  
9 Q. Well, let's take this litigation, for example.  
10 **A. Oh.**  
11 Q. And the lead-up to this litigation. Is it your  
12 testimony that the Board and the district never  
13 retained any lawyer other than Mr. Griffin for that  
14 purpose?  
15 **A. No. The insurance company gave us a lawyer,**  
16 **and then the Board retained the lawyer that we have.**  
17 Q. Okay. That's a helpful clarification. So from  
18 the Board's perspective, it was Mr. Griffin whom you  
19 were looking to for advice?  
20 **A. On the daily routine running of the school**  
21 **district?**  
22 Q. No, I'm talking about this litigation now.  
23 **A. I would imagine, until the insurance lawyers**  
24 **entered the picture.**

14 (Pages 50 to 53)



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1 Q. Okay. And after the insurance lawyers entered  
2 the picture, was Mr. Griffin out of the picture or did  
3 they function in cooperation?  
4 **A. I believe he was copied some things, but I'm**  
5 **not sure that he actually, you know, I think he was**  
6 **copied some things and that's as far as I know or**  
7 **recall.**  
8 Q. Were you the principal interface between the  
9 Board and the, and the district's lawyers in  
10 connection with this litigation?  
11 **A. They would ask me things that they wanted. We**  
12 **would gather them for that law firm.**  
13 Q. And did you communicate to various lawyers'  
14 requests for legal analysis and advice?  
15 **A. When the lawyers -- the insurance lawyers**  
16 **started working on the case?**  
17 Q. Any lawyers.  
18 **A. Regarding this case or regarding the daily**  
19 **operations of the school district?**  
20 Q. Regarding this case.  
21 **A. They would call often. I would talk to them.**  
22 **I often asked Mr. Bireley to have a conference call**  
23 **with things that they were requesting. I would**  
24 **imagine along that time I may have asked for advice.**

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1 Q. Did you ever make written requests for legal  
2 analysis and advice to any, any lawyer in connection  
3 with this litigation or the Board prayer, school  
4 prayer, graduation prayer issues that it encompasses?  
5 **A. Written advice?**  
6 Q. Yes.  
7 **A. I don't recall written advice.**  
8 Q. But you think it may be true that you asked for  
9 oral advice? Asked orally for advice?  
10 **A. Well, when you're talking on the phone. I mean**  
11 **I don't recall a specific question that I asked. I**  
12 **was mostly responding to things they wanted.**  
13 Q. Okay. And in that answer, that is the "they,"  
14 "they wanted," who is "they"?  
15 **A. The first lawyers with the insurance company.**  
16 Q. Mr. Balaguer and Mr. Cafferky?  
17 **A. Yeah. If I asked any advice before that, it**  
18 **would most likely or have been Mr. Griffin. If there**  
19 **was any advice asked beforehand, it would have been to**  
20 **Mr. Griffin.**  
21 Q. And I asked you this question before, but I'm  
22 not sure that I got a direct answer. Is it correct  
23 that you were the principal interface between the  
24 Board and the lawyers representing the district in

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1 this case?  
2 **A. I would say so, except for a few times when I**  
3 **asked Mr. Bireley to either sit in or listen, you**  
4 **know, have a conference call with those lawyers.**  
5 Q. Okay. And so now my question is, would you  
6 identify for me all the lawyers that you had occasion  
7 to communicate with on the issues presented in this  
8 case?  
9 **A. John Cafferky and --**  
10 Q. You've already identified Cafferky and Balaguer  
11 and Griffin.  
12 **A. Griffin, yes.**  
13 Q. Any others?  
14 **A. Then when Jason came into the case, I --**  
15 Q. Yes, ma'am.  
16 **A. -- I met him briefly.**  
17 Q. Yes, ma'am. Anyone else?  
18 **A. No.**  
19 Q. So as you understand it, as you sit here today,  
20 the only lawyers whom you consulted for advice on the  
21 issues of this case were Balaguer, Cafferky, Griffin  
22 and Mr. Gosselin?  
23 **A. Yes.**  
24 Q. Okay.

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1 **A. I did notify my associations when the suit was**  
2 **first, you know, when we said we were all being sued**  
3 **individually, I did call my associations and ask them**  
4 **to, if I would need a lawyer, was I covered.**  
5 Q. Because you were named individually?  
6 **A. Yes. I did do that. But I don't recall --**  
7 **when I found out that that was dropped individually, I**  
8 **didn't pursue that.**  
9 Q. Yes. Now, the Board's regular lawyer, are you  
10 the person in charge of whether to invite the Board's  
11 lawyer to a Board meeting?  
12 **A. Yes, for the most part, I talk that over with**  
13 **the president of the Board.**  
14 Q. Okay. In this instance do you recall whether  
15 you contacted Mr. Griffin or whether someone else  
16 directed you to contact Mr. Griffin for the first time  
17 about the issues presented in this case?  
18 **A. I believe most likely I contacted Mr. Griffin.**  
19 **I may have mentioned to Mr. Bireley that I was**  
20 **contacting him, whoever was the president at that**  
21 **time.**  
22 Q. And correct me if I'm wrong, but I take it you  
23 became aware of a complaint, Mrs. Dobrich's original  
24 complaint, and you wanted legal advice on that issue?

15 (Pages 54 to 57)

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1 **A. I became aware of her complaint on the night of**  
2 **graduation.**  
3 Q. Yes, ma'am. When did you contact Mr. Griffin  
4 for the first time?  
5 **A. Probably right after that, because I had, I had**  
6 **told her to bring her complaint to the Board when I**  
7 **talked to her on the phone after that. Because she**  
8 **was so angry that I asked her to call my office or let**  
9 **my office know about her concern and to bring her**  
10 **concern to the Board. So I imagine -- I don't know**  
11 **the exact time, but I imagine sometime during that**  
12 **period.**  
13 Q. The first Board meeting -- do you recall the  
14 date of the graduation, by the way?  
15 **A. It was 2004, June. But I can't go any further**  
16 **than that. Sorry.**  
17 Q. The first Board meeting following the  
18 graduation was on June 15th. So within the first two  
19 weeks of June. Am I right in understanding that you  
20 contacted Mr. Griffin sometime between the graduation  
21 ceremony itself and the June 15th Board meeting?  
22 **A. I can't tell you for sure when I contact him --**  
23 **contacted him.**  
24 Q. And did you contact him by telephone?

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1 **A. Yes. If I contacted him during that period,**  
2 **I'm not sure.**  
3 Q. In your capacity as superintendent, do you  
4 handle complaints from district residents about events  
5 within the district?  
6 **A. Some, some of them I do. Often they call their**  
7 **principal. If they don't get satisfaction from the**  
8 **principal, then they call my office.**  
9 Q. And whether it comes first to the principal or  
10 first directly to you, you would follow the process  
11 that you described for me earlier, correct?  
12 **A. Right. I would either ask someone to look into**  
13 **it, or someone to meet with the parent, or I would**  
14 **meet with the parent myself to hear their concern.**  
15 Q. But it was your practice, either yourself or  
16 someone at your direction, to meet with the person who  
17 made the complaint?  
18 **A. Or talk to them on the phone. Most of the**  
19 **concerns were handled over the phone. Very few**  
20 **meetings face-to-face in my office on parent concerns.**  
21 Q. You testified earlier about Mrs. Does having --  
22 sorry, Mrs. Dobrich having complained to you about the  
23 graduation prayer at the 2004 graduation ceremony.  
24 **A. Yes.**

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1 Q. Prior to that, had anyone ever offered a  
2 complaint to you about prayer at graduations in the  
3 Indian River School District?  
4 **A. Yes.**  
5 Q. When did that occur?  
6 **A. I, I'm not sure which graduation, but it was an**  
7 **employee who wanted to remain anonymous. So I told**  
8 **the Board of her concern, but she -- I asked her if**  
9 **she wanted to come forward to talk about her concern,**  
10 **and she didn't.**  
11 Q. And who was that employee?  
12 **A. I --**  
13 MR. GOSSELIN: Objection. I mean this is  
14 phase 2.  
15 BY MR. ALLINGHAM:  
16 Q. I think Mr. Gosselin's objection is well taken.  
17 Did the employee's complaint -- was it  
18 limited to graduation prayer or was it more broadly  
19 directed to prayer in the school district?  
20 **A. Graduation prayer, I believe.**  
21 Q. Specific to graduation prayer?  
22 **A. (Nodded affirmatively.)**  
23 Q. Okay. Before your having learned of the  
24 objection of the Doe family and the Dobrich family to

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1 the School Board's practice of opening its meetings  
2 with prayer, had you ever had complaints about that  
3 practice before then?  
4 **A. No, not that I recall.**  
5 Q. And that would include staff complaints, parent  
6 complaints, student complaints, any complaints?  
7 **A. Not that I recall.**  
8 Q. All right. The School Board has a policy on  
9 the use of audiotape for regular Board meetings. Are  
10 you aware of that? It was adopted recently.  
11 **A. I'm sorry, I don't recall.**  
12 Q. All right. In all events, it was the Board's  
13 practice to tape its meetings, correct?  
14 **A. Yes.**  
15 Q. Via audiotape?  
16 **A. Yes.**  
17 Q. It was not the Board's practice to videotape  
18 its meetings; is that correct?  
19 **A. Yes.**  
20 Q. Do you know if any School Board meetings were  
21 ever video recorded?  
22 **A. The one on, when the crowd showed up.**  
23 Q. August 24th?  
24 **A. August 24th. The reason behind that is we**

16 (Pages 58 to 61)

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1 heard that there would be a large crowd, and I just  
2 didn't want angry people. So I said well, if we can  
3 video, we can show it in another place, in case we  
4 have too many people for the cafeteria. That's the  
5 only time I recall us videotaping a Board meeting,  
6 unless there was another time that we thought there  
7 might be a crowd about something.  
8 Q. Let me just ask you a few questions about that.  
9 At that August 24th meeting, the meeting itself was  
10 held in the cafeteria, correct?  
11 A. I believe at Frankford Elementary, if I recall.  
12 Q. It was at Frankford Elementary, I was just  
13 wondering about the room.  
14 A. In the cafeteria.  
15 Q. And provision was made ahead of time for there  
16 to be an overflow room, correct?  
17 A. Yes, in the gymnasium.  
18 Q. Okay. And you or someone acting at your  
19 direction arranged for there to be a video feed to the  
20 gymnasium?  
21 A. Yes, because I felt, you know, people get angry  
22 if they can't get in to hear a public meeting.  
23 Q. And so you arranged to set up television  
24 monitors in the gymnasium?

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1 A. Yes.  
2 Q. And you asked someone to arrange for wiring of  
3 the video feed from the cafeteria to the gymnasium?  
4 A. Yes.  
5 Q. Okay. When did you first hear that it was  
6 likely there would be an overflow?  
7 A. I think sometime close to the meeting, three or  
8 four days maybe ahead of the meeting. I -- as I  
9 recall.  
10 Q. How did you hear about it?  
11 A. Well, by word of mouth, you know, people just  
12 say, you know, people are going to show up and, we  
13 didn't really expect it or know it, you know, or think  
14 about it. And when we started hearing that, I just  
15 don't -- didn't want an angry crowd outside. So I  
16 would say we, maybe three or four days or a week  
17 before at the most.  
18 Q. We've had some testimony that the news travels  
19 as effectively by word of mouth in this district as it  
20 does by any other media. Would you agree with that?  
21 A. Most likely. That's what's been said about  
22 Sussex County.  
23 Q. And you would agree with that? Yes?  
24 A. That's, I mean that's more like -- no, I don't

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1 know if I would really agree with that.  
2 Q. Word of mouth is an effective mode of  
3 communication in this district. Is that fair?  
4 A. I'd say that's fair.  
5 Q. All right. Mr. Cohee testified that you called  
6 him on the afternoon of August 24th and told him that  
7 there was going to be a very large crowd. Do you  
8 recall making that telephone call?  
9 A. I don't recall making that call. But I'm sure  
10 if he said I did, I did.  
11 Q. Do you recall, do you recall -- sometimes it's  
12 useful for me to -- you don't affirmatively recall  
13 that you did not call him, correct?  
14 A. No.  
15 Q. You have no reason to doubt that you called  
16 him?  
17 A. No, I would -- no. No. I mean I called Board  
18 members.  
19 Q. Did you call all the Board members to tell them  
20 that there was going to be a big crowd?  
21 A. You know, I don't recall that I did. I may  
22 have done that.  
23 Q. And --  
24 A. Because it's unusual that we have a big crowd.

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1 Q. And why would you have called the Board  
2 members? Was there something that you thought maybe  
3 they should do differently if there was going to be a  
4 big crowd?  
5 A. No, I wanted them to know we're trying to  
6 prepare for a big crowd, and I think I asked people to  
7 help with parking, you know, and so that the  
8 videotapes, so we could, people could see the meeting  
9 or the procedures or the public speaking, whatever.  
10 Q. And the video feed to the gymnasium, so far as  
11 you know, that was working throughout the meeting?  
12 A. I don't know.  
13 Q. All right. You didn't hear any angry people in  
14 the gymnasium, I take it?  
15 A. No. I didn't.  
16 Q. There were police officers outside the building  
17 at Frankford Elementary. Did you call or ask someone  
18 to call and have police officers ready at the  
19 building?  
20 A. I believe I did. When we met, a small group  
21 met and we talked about the logistics of the meeting  
22 and safety of people.  
23 Q. Who was in that small group?  
24 A. I believe it was Mr. Savage, the assistant

17 (Pages 62 to 65)



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1 **superintendent at the time, and Mr. Hudson, who does,**  
2 **you know, he works with schools on being secure.**  
3 Q. What's Mr. Hudson's position?  
4 **A. Pupil services.**  
5 Q. Oh, he's employed by the district?  
6 **A. Yeah, employed by the district, yeah.**  
7 Q. But security responsibilities would fall --  
8 security and safety responsibilities would fall within  
9 his jurisdiction?  
10 **A. Yes. He, he works with the schools on their**  
11 **safety plans.**  
12 Q. All right. And correct me if I'm wrong, but a  
13 few days before the meeting, you heard that there  
14 would be a big crowd. Is it correct that you then  
15 called Mr. Hudson and probably walked down the hall to  
16 Mr. Savage's office and said, "We ought to have a  
17 meeting to think about how to deal with this, this  
18 event"?  
19 **A. Normally I would call them together and say,**  
20 **"We probably need to videotape and secure this event,"**  
21 **and then I let them go ahead with the plans. I don't**  
22 **sit there and tell them what plan to use.**  
23 Q. Well, you must have told them something about  
24 what you had heard was to be expected. Is that a fair

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1 assumption?  
2 **A. Yes.**  
3 Q. All right. And am I correct that you told him  
4 that you had heard -- told them that you had heard  
5 there would be several hundreds of people there?  
6 **A. Well, and they told me. I mean, you know, it's**  
7 **a conversation.**  
8 Q. Everybody knew?  
9 **A. Seemed like that, that they knew more -- more**  
10 **people knew more than we knew, I think. So...**  
11 Q. Does it seem to you, thinking back, that it  
12 was, at least in the days coming up to that August  
13 24th meeting, that it was common knowledge that there  
14 would be a very big crowd at the meeting?  
15 **A. I wouldn't say that. I'd say it sort of seemed**  
16 **to happen more in the later days, closer to the**  
17 **meeting.**  
18 Q. Yes, in the time period when you heard about  
19 it --  
20 **A. Yeah.**  
21 Q. -- would you agree that it was common  
22 knowledge?  
23 **A. I guess. I don't know, I mean I really don't**  
24 **know.**

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1 Q. Did you receive any copies of the videotape of  
2 the August 24th meeting?  
3 **A. We have a copy, but I didn't look at it. I**  
4 **mean, no.**  
5 Q. Okay. Did you -- did any Board member request  
6 a copy of that videotape?  
7 **A. Not that I recall.**  
8 Q. Did any Board members ask for the opportunity  
9 to review the videotape?  
10 **A. Not that I recall.**  
11 Q. Now, this is on the preparation of the minutes,  
12 Miss Hobbs. I gather since Mrs. Hearn was preparing  
13 those minutes before you arrived that you weren't  
14 involved in giving her any instructions as to how to  
15 prepare the minutes?  
16 **A. No. We continued to prepare them the way she**  
17 **had been preparing them.**  
18 Q. Do you recall ever having given Mrs. Hearn any  
19 instructions, whether with respect to a particular  
20 meeting or more generally as to all meetings, do you  
21 ever -- do you recall ever having given Mrs. Hearn an  
22 instruction or direction as to how to prepare a set of  
23 minutes?  
24 **A. No, not that I recall. We just had a routine**

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1 **that we used.**  
2 Q. Do you recall any instruction coming from any  
3 Board member as to Mrs. Hearn as to how to prepare the  
4 minutes?  
5 **A. Not that I recall.**  
6 Q. I asked you earlier about the audiotaping of  
7 meetings. Do you know what happens to the audiotapes  
8 after the meetings?  
9 **A. I believe she uses those to write her minutes.**  
10 Q. Is the best person to ask about that  
11 Mrs. Hearn?  
12 **A. Well, I would imagine.**  
13 Q. We have been informed that the August 24th  
14 Board meeting was not audiotaped. Do you know why?  
15 **A. I don't, I don't know why.**  
16 Q. That would be contrary to the Board's practice.  
17 Is that correct?  
18 **A. Normally we do. I don't, I wouldn't know.**  
19 Q. Do you know how -- in the absence of an  
20 audiotape, do you know how the minutes of the August  
21 24 meeting were prepared?  
22 **A. She takes minutes while she's sitting there.**  
23 Q. Mrs. Hearn takes notes?  
24 **A. Um-hum.**

18 (Pages 66 to 69)

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1 Q. Do you know whether Mrs. Hearn prepared her  
2 minutes from her notes or from the videotape or from  
3 some other source for the August 24th meeting?  
4 **A. I wouldn't really want to -- I wouldn't know**  
5 **how to answer that.**  
6 Q. Is Mrs. Hearn the best person to ask that  
7 question?  
8 **A. I would say so.**  
9 Q. Do the audio recordings for the Board meetings  
10 start when the Board meeting is called to order?  
11 **A. I believe so.**  
12 Q. You're not the person who starts the tape, am I  
13 right about that?  
14 **A. Yes, you're right.**  
15 Q. Who does start the tape?  
16 **A. Mrs. Hearn.**  
17 Q. As executive secretary, your understanding was  
18 that the intent was to start the tape at the opening  
19 of the meeting, correct?  
20 **A. Yes.**  
21 Q. Did you ever instruct Mrs. Hearn to transcribe  
22 any portion of any audiotape recording of a Board  
23 meeting?  
24 **A. I may have over the years. I'm not sure any**

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1 **particular thing I would have asked her to do, but I**  
2 **may have.**  
3 Q. Do you know whether the audiotapes of meetings  
4 are preserved?  
5 **A. She keeps, I believe, the audiotapes or she**  
6 **used to. I'm not sure if that's the current policy or**  
7 **not.**  
8 Q. Is Mrs. Hearn the best person to ask that  
9 question?  
10 **A. I would say so.**  
11 Q. I'm going to show you a set of minutes, Miss  
12 Hobbs, and I'm showing you these minutes because --  
13 I'm going to give you the minutes first. I'm putting  
14 in front of you a document we've previously marked as  
15 Plaintiffs' Exhibit 54.  
16 MR. ALLINGHAM: Do you want one?  
17 MR. GOSSELIN: Yeah.  
18 MR. ALLINGHAM: Can I get it back when  
19 we're done?  
20 MR. GOSSELIN: Sure.  
21 MR. ALLINGHAM: Thanks.  
22 BY MR. ALLINGHAM:  
23 Q. I have a few questions generally about the  
24 practice of keeping minutes and how that's done. So I

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1 give you this as an example.  
2 First of all, these are the final minutes,  
3 we took them off a Web site --  
4 **A. Okay.**  
5 Q. -- the district Web site. You'll see there's  
6 no signature. But am I correct, as we talked about  
7 earlier, that although your signature is not on it,  
8 the Web site minutes are intended to be the final  
9 minutes?  
10 **A. My understanding is Web site minutes wouldn't**  
11 **be put on Web site until they're approved by the**  
12 **Board.**  
13 Q. Yes, ma'am, okay.  
14 Now, the minutes record that the meeting  
15 is called to order at 7:30, which is the typical time,  
16 correct?  
17 **A. Yes.**  
18 Q. And there is then a roll call, which shows  
19 who's present and who's not, correct?  
20 **A. Yes.**  
21 Q. And it's then, it's then the practice of the  
22 Board to approve the agenda, correct?  
23 **A. Yes.**  
24 Q. All right. Now, under the approval of agenda

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1 heading, there is a notation which reads, "President  
2 Walls noted that it is the history of the Board to  
3 have a prayer at the beginning of the meeting, which  
4 is voluntary among the members of the Board of  
5 Education and the audience is not required to  
6 participate. President Walls then read a prayer,  
7 which was part of a speech given by Dr. Martin Luther  
8 King."  
9 Do you know whether it was typical in the  
10 minutes for a statement from President Walls about the  
11 history of the Board's prayer practices to be  
12 reflected in the minutes?  
13 **A. I don't recall that that happened in previous**  
14 **minutes. I'm not sure, but --**  
15 Q. Do you know, did you tell Mrs. Hearn to  
16 incorporate that comment in the minutes of March 22,  
17 2005?  
18 **A. I don't recall that I did.**  
19 Q. Do you know whether anyone else instructed  
20 Mrs. Hearn to incorporate that statement in the  
21 minutes?  
22 **A. I don't, no.**  
23 Q. The next heading is "Presentation of Colors."  
24 And it reflects that the presentation of colors was

19 (Pages 70 to 73)

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1 performed by the Sussex Central High School Army  
2 JROTC. During the academic school year Board  
3 meetings, was it the custom and practice of the  
4 district to have a presentation of colors?  
5 **A. Yes.**  
6 Q. And was that performed by the JROTC of either  
7 Sussex Central or Indian River High Schools on a  
8 rotating basis?  
9 **A. Yes.**  
10 Q. Okay. And how did the JROTC members know that  
11 they needed to be at the Board meeting?  
12 **A. Well, we didn't have JROTC all the years I was**  
13 **there, so I, at one time I would imagine we invited**  
14 **them to come before the Board. And then it's placed**  
15 **on the agenda, and usually through the principal they**  
16 **would find out.**  
17 Q. Okay. Now, the presentation of the colors was  
18 an agenda item for every meeting during the school  
19 year. Was there a presentation of colors during the  
20 summer meetings of the Board?  
21 **A. No.**  
22 Q. All right. Would you agree with me that the --  
23 **A. That I know of, I mean.**  
24 Q. Okay. Would you agree with me that the JROTC

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1 members who were to present the colors were not --  
2 this was not a voluntary thing, it was an important  
3 part of the meeting to have the colors presented?  
4 **A. I would think that they have certain hours of**  
5 **service that they should do, and this would probably**  
6 **be considered some of their hours of service.**  
7 Q. And the JROTC is a district organization,  
8 correct? District-sponsored organization?  
9 **A. Yes.**  
10 Q. Miss Hobbs, is it correct that from time to  
11 time during your tenure as superintendent there was a  
12 system pursuant to which students would be awarded  
13 points for attendance at Board meetings?  
14 **A. Not under my direction that I can recall.**  
15 Q. This would be in connection with fund-raising  
16 activities.  
17 **A. Not that I know of.**  
18 Q. Do you know whether when athletic teams were  
19 invited to appear before the Board for recognition,  
20 coaches employed by the district told the athletes  
21 that attendance was mandatory?  
22 **A. Not that I know of.**  
23 Q. Would it surprise you if a coach told the  
24 members of the team that attendance was mandatory?

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1 **A. Often we gave out a lot of certificates to**  
2 **coaches only, there were no children there. So I**  
3 **would say yes.**  
4 Q. Well, you also gave certificates to individual  
5 team members from time to time, correct?  
6 **A. Right.**  
7 Q. And would it surprise you that in those  
8 instances, a coach had told the team members that  
9 attendance was mandatory?  
10 **A. I haven't heard of such a thing.**  
11 Q. We talked earlier about approval of minutes,  
12 which comes, I take it, after presentation of colors?  
13 **A. Yes.**  
14 Q. Typically on the agenda. And then there is a  
15 listing of visitors and staff in attendance, which  
16 appears to include the, among other things, the awards  
17 for the children in attendance at that Board meeting?  
18 **A. Yes.**  
19 Q. Okay. You mentioned earlier that you tried to  
20 give awards for statewide or nationwide achievement,  
21 or recognition for statewide or nationwide  
22 achievement. I take it from these minutes that you  
23 also gave recognition for conferencewide or countywide  
24 achievement.

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1 **A. Yes, at times we did.**  
2 Q. I just did a quick count, but there are about  
3 45 students who appeared to -- the minutes reflect  
4 received recognition from the Board at this March 22  
5 meeting. Is that a representative number of students  
6 to achieve recognition at academic year Board  
7 meetings?  
8 **A. I think this is a rather large number, because**  
9 **of the number of athletes that are being recognized.**  
10 **Normally the list isn't this long, only on certain**  
11 **times of the year when you get all conference and**  
12 **those kind of things.**  
13 Q. So I'm just, I'm just trying to get a sense,  
14 Miss Hobbs. For the three Board meetings that follow  
15 each of the athletic seasons, would it be fair to say  
16 that this is a representative number?  
17 **A. That are invited.**  
18 Q. Yes, ma'am.  
19 **A. I don't know if it really follows every, every**  
20 **athletic season, but at times there's more and times**  
21 **there's less.**  
22 Q. Okay. At times there's more than this number,  
23 at times there would be less than this number?  
24 **A. Yeah, I would say this is probably pretty**

20 (Pages 74 to 77)



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1 **heavy, according to our regular agendas.**  
2 Q. According to your regular agendas, were there  
3 meetings that were specially designed to recognize  
4 students?  
5 **A. No. There is an academic assembly at the end**  
6 **of the year that recognizes all academic students who**  
7 **make a certain point score.**  
8 Q. Okay. And that's not a Board meeting?  
9 **A. No. That's a dinner.**  
10 Q. All right. So to summarize what we have here,  
11 this 45 or so students is somewhere in the middle, as  
12 you recall it. There were times when it was, the  
13 number was higher --  
14 **A. I'd say it's about --**  
15 Q. Let me finish my question. There were times  
16 when the number was higher, there were times when the  
17 number was lower; is that correct?  
18 MR. GOSSELIN: Objection.  
19 **A. I'm not sure if it was higher or not, but there**  
20 **were times when it was lower.**  
21 Q. Can you recall any meeting at which, during the  
22 academic school year at which no students were present  
23 during your entire tenure as superintendent?  
24 **A. I can't recall that.**

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1 MR. ALLINGHAM: Can I have that back,  
2 please?  
3 THE WITNESS: Want this one?  
4 MR. GOSSELIN: You can keep that.  
5 MR. ALLINGHAM: No, you can keep that.  
6 BY MR. ALLINGHAM:  
7 Q. Are the -- I just want to follow up on an  
8 answer you gave a minute ago.  
9 Are the students who are, who are  
10 recognized for their academic achievement at that  
11 assembly that you just talked about a minute ago, are  
12 they the same students who are recognized for academic  
13 achievement at Board meetings?  
14 **A. It would be different things for academic**  
15 **achievement at the Board meetings, more like Odyssey**  
16 **of the Mind or a science team they won or a math team**  
17 **they won. The academic achievement banquet is to**  
18 **recognize children with a certain point score or**  
19 **above. And they're invited each year to an academic**  
20 **achievement banquet. So we wouldn't recognize**  
21 **everybody who had a point score of 4.0 at the Board.**  
22 **It would -- this is mainly their point score.**  
23 Q. When you say point, you mean grade point  
24 average?

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1 **A. Grade point average, yeah.**  
2 Q. The, I take it then that the people who were  
3 invited for recognition at the Board level is a lower  
4 enough -- fewer students are -- fewer children are  
5 invited for academic achievement at the Board meetings  
6 than --  
7 **A. It's more like national competitions or state**  
8 **competitions. I think that might be a better way of**  
9 **saying it than academic achievement.**  
10 Q. More special honors?  
11 **A. Yes.**  
12 Q. Okay. I want to ask the same questions about  
13 athletes. Is there a comparable, you know, athletic  
14 awards assembly to the academic award assembly?  
15 **A. They have those in the individual schools.**  
16 **Like the soccer team will honor their soccer players,**  
17 **and they have a dinner usually and give out letters or**  
18 **whatever they earn.**  
19 Q. And so I'm gathering it's the same situation,  
20 there are more special or unusual awards recognized at  
21 the Board level than would be recognized at the  
22 individual school level?  
23 **A. Right.**  
24 Q. Okay. On PX 54 you'll see that the minutes

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1 reflect that Mr. Walls gave the prayer. Do you see  
2 that?  
3 **A. Yes, I do.**  
4 Q. And the minutes indicate that Mr. Walls' prayer  
5 was from a speech given by Martin Luther King. Do you  
6 know why the minutes in this particular instance  
7 reflect the source of the prayer?  
8 **A. I don't know why.**  
9 Q. Do you know whether that was customary in the  
10 minutes?  
11 **A. I don't believe it was customary.**  
12 Q. Do you recall anyone instructing Mrs. Hearn to  
13 include the source of the prayer in these minutes?  
14 **A. I don't recall that.**  
15 Q. Those minutes reflect that Mr. Walls gave a  
16 prayer. Did you become aware that the minutes began  
17 to refer to an invocation instead of a prayer at some  
18 point?  
19 **A. I don't -- I'm not aware of that.**  
20 Q. Was there an instruction given to Mrs. Hearn to  
21 call the opening prayer an invocation instead of a  
22 prayer?  
23 **A. I don't recall giving her that instruction.**  
24 Q. Do you recall anyone giving her that

21 (Pages 78 to 81)

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1 instruction?  
2 **A. No.**  
3 Q. Do you know why Mrs. Hearn changed her practice  
4 from describing it as a prayer to describing it as an  
5 invocation?  
6 **A. I don't know at this point.**  
7 Q. You've several times mentioned Odyssey of the  
8 Mind. What is that?  
9 **A. It's a competition where students have a**  
10 **problem to solve and have so many minutes to solve it,**  
11 **and they can choose how they're going to solve the**  
12 **problem, you know. Sometimes it often happens that**  
13 **they choose through a drama presentation to solve**  
14 **their problem. It's a state competition and then a**  
15 **national competition.**  
16 Q. And have district students won statewide  
17 competitions?  
18 **A. They've won statewide competitions, and I think**  
19 **for the first time last year we had someone win a**  
20 **national competition.**  
21 Q. And were those statewide winners and nationwide  
22 winners recognized by the Board?  
23 **A. Yes.**  
24 Q. Were you involved in any way in inviting

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1 Odyssey of the Mind students to receive awards for  
2 their achievements?  
3 **A. Usually we were so elated about it, I would say**  
4 **to the sponsor, you know, "Please have the children**  
5 **come and be recognized," you know. Just, I**  
6 **wouldn't -- you know, it got to be a habit that when**  
7 **somebody started to, you know, do something well,**  
8 **they'd get recognized.**  
9 Q. And specifically with respect to Odyssey of the  
10 Mind, your best recollection is that you would be  
11 excited about the children's achievement and you would  
12 ask the sponsor of that group to invite the children?  
13 **A. And their coaches.**  
14 Q. Okay. Do you have any recollection about  
15 speaking to any members of the Odyssey of the Mind  
16 team about, or their families about attending a Board  
17 meeting?  
18 **A. Personally?**  
19 Q. Yes.  
20 **A. No, I don't recall that. I may have, but I**  
21 **don't recall it.**  
22 Q. This is a document that we've previously marked  
23 as Plaintiffs' Exhibit 9. It's been identified by a  
24 number of witnesses as the Board's Board prayer

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1 policy.  
2 You've got this one memorized.  
3 THE WITNESS: Do you need a copy?  
4 BY MR. ALLINGHAM:  
5 Q. What role, if any, did you have in the  
6 consideration and adoption of Board Policy BDA.1?  
7 **A. I didn't recall that I had any role at all in**  
8 **it. I don't usually take a role in developing their**  
9 **policies.**  
10 Q. Did you have any role in obtaining legal advice  
11 for the Board in connection with its consideration and  
12 adoption of this policy?  
13 **A. I would imagine that -- they also can ask**  
14 **Mr. Griffin for his opinion or, you know, normally on**  
15 **policies, certain policies we ask his opinion.**  
16 **Whether I -- I don't believe that I called and asked**  
17 **for his opinion on this. But somebody on the Policy**  
18 **Committee may have.**  
19 Q. On this one, you have -- I just want to make  
20 sure I have your testimony right. You have an  
21 affirmative recollection that you did not request  
22 legal advice on this policy from Mr. Griffin; is that  
23 correct?  
24 **A. I don't believe that I asked for any legal**

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1 **advice on this one. But I, I don't really recall.**  
2 Q. Do you recall any public discussion of this  
3 policy by Board members?  
4 **A. If it was brought for the Board, which it most**  
5 **likely was, it was passed, they would have probably**  
6 **discussed it at the public Board meeting. That's what**  
7 **we do.**  
8 Q. Do you, do you --  
9 **A. I don't recall what was said about it, no.**  
10 Q. Okay. Do you recall that there was public  
11 discussion of this policy at the Board meeting?  
12 **A. All first readings are brought before the**  
13 **Board, so I would imagine there was some discussion.**  
14 Q. The first reading procedure is simply a  
15 notation for the record that a policy is being  
16 presented for a first reading. Is that right?  
17 **A. Yes.**  
18 Q. All right. There can be discussion, but there  
19 are instances in which there is not discussion.  
20 **A. Yes.**  
21 Q. And typically, a first reading does not involve  
22 actually reading the policy out loud, correct? It's a  
23 term for the first presentation of the policy.  
24 **A. Sometimes we have read the policies out loud,**

22 (Pages 82 to 85)

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1 **you know. So I would say sometimes, but not on a**  
2 **regular basis.**  
3 Q. And I take it you don't remember whether this  
4 policy was read out loud or not?  
5 **A. This may have been read out loud. I am not**  
6 **sure.**  
7 Q. At least for your, during your tenure as  
8 superintendent, did you understand that the Board  
9 Policy BDA.1, which as you'll see at the bottom left  
10 was adopted on October 19th, 2004, was it your  
11 understanding that this policy changed the Board's  
12 practice in any way regarding opening its meetings  
13 with a prayer or a moment of silence?  
14 **A. I believe that may have been more rotated**  
15 **between the Board members. But --**  
16 Q. And in suggesting that, you're referring to  
17 paragraph 2 of the policy?  
18 **A. Yes, um-hum.**  
19 Q. Describe for me what the practice was before  
20 the policy was adopted with respect to which Board  
21 member or Board members were invited to open the  
22 meeting with a prayer.  
23 **A. Usually two or three opened the Board with a**  
24 **prayer.**

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1 Q. And when you say that, you mean one of a group  
2 of two or three was invited at each meeting, correct?  
3 **A. I didn't have anything to do with the inviting**  
4 **or how they got invited. But the Board president**  
5 **would say, "Mr. Evans will give the prayer," or,**  
6 **"Mr. Helms will give the prayer." So I don't know how**  
7 **that came about.**  
8 Q. Am I correct that you had no involvement in the  
9 decision whom to invite to give the prayer?  
10 **A. Yes, you're correct.**  
11 Q. All right.  
12 MR. ALLINGHAM: Okay, we have to change  
13 the tape.  
14 THE VIDEOGRAPHER: Going off the record at  
15 approximately 11:15 a.m.  
16 (A brief recess was taken.)  
17 THE VIDEOGRAPHER: Back on the record at  
18 approximately 11:21 a.m.  
19 BY MR. ALLINGHAM:  
20 Q. Miss Hobbs, am I right that you worked in  
21 education for pretty close to 40 years?  
22 **A. Yes.**  
23 Q. First as a teacher and then as an  
24 administrator?

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1 **A. Yes.**  
2 Q. Would you agree with me that adolescents are  
3 often susceptible to pressure from their peers towards  
4 conformity?  
5 **A. Yes.**  
6 Q. And would you agree with me that that influence  
7 is strongest in matters that could be described as  
8 social conventions in the school?  
9 MR. GOSSELIN: Objection.  
10 **A. I would have to say that I agree with you, that**  
11 **they could be influenced by their peers.**  
12 Q. We were talking before the break about the  
13 academic assembly, awards assembly and the  
14 interrelationship between that event and the Board  
15 meetings at which some academic achievements are  
16 recognized.  
17 My question to you is, would it have been  
18 possible, during your tenure as superintendent, to  
19 recognize all academic achievements at an assembly,  
20 such as the academic awards assembly?  
21 **A. I would imagine that every school has certain**  
22 **assemblies more than we do as a district, and the**  
23 **children are recognized at those assemblies. I, I**  
24 **feel that if the Board is representing the people,**

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1 **they should see what the people have accomplished.**  
2 **And I think that at the state or national level,**  
3 **that's a great accomplishment for children, adults or**  
4 **whoever, and they should be thanked for it.**  
5 Q. The achievements of students in achieving a  
6 certain GPA are recognized and those students are  
7 thanked for their achievements at a school assembly,  
8 correct?  
9 **A. No, well at the high school we had in the past**  
10 **one district assembly to recognize the higher GPAs,**  
11 **the academic assembly. Both high schools came**  
12 **together and we would rotate it from high school to**  
13 **high school, or have it in this cafeteria because it's**  
14 **the largest.**  
15 **Just this past year, because there were so**  
16 **many children to be recognized, we did separate it and**  
17 **have one at the Sussex Senior and one at Indian River**  
18 **High School. But at that time both, you know, I'm**  
19 **invited -- I'm not invited to normally every assembly**  
20 **that a school has, that would be impossible. But this**  
21 **was a district academic achievement banquet. I**  
22 **believe it was started, I don't -- that because, you**  
23 **know, all the boosters clubs for athletics always make**  
24 **sure their athletes are recognized, and we wanted to**

23 (Pages 86 to 89)



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1 say well, you know, academics are important, after  
2 all.  
3 Q. All right. Do you know someone named Tom  
4 Neuberger?  
5 A. Yes, I know who he is.  
6 Q. Did the district ever retain Mr. Neuberger to  
7 advise it in connection with the issues presented in  
8 this litigation?  
9 A. I don't believe the district retained  
10 Mr. Neuberger. He came and talked to us, but the  
11 district didn't retain him.  
12 Q. We've had testimony that Mr. Neuberger offered  
13 his services but those services were declined by the  
14 Board. Do you recall, do you recall that that  
15 occurred?  
16 A. Yes, I believe so.  
17 Q. Do you know when the Board declined  
18 Mr. Neuberger's representation?  
19 A. He came and spoke to us one evening. I'm not  
20 sure of the date. And --  
21 Q. I'm going to set some time parameters and see  
22 if we can pinpoint it more exactly. The Board policy  
23 BDA.1 was adopted on October 19th, 1990 -- sorry,  
24 2004. The first reading was in September of 2004. Is

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1 it your recollection that Mr. Neuberger appeared  
2 before the Board to offer his services at some time  
3 before the first reading?  
4 A. Before the first of the year?  
5 Q. First reading.  
6 A. Oh, okay. I was going to say, yes, before the  
7 first of the year I could definitely say. But I -- I  
8 just don't know the date of that meeting, I'm sorry.  
9 Q. Do you know if it was a regular Board meeting?  
10 A. I think it was probably a special Board  
11 meeting.  
12 Q. And was it in executive session or in public?  
13 A. I believe it was executive session.  
14 Q. I'm putting before you what we have marked as  
15 PX 14. These have been identified as the official  
16 minutes of a special Board meeting on August 23, 2004.  
17 This is the day before the big meeting.  
18 A. Okay.  
19 MR. ALLINGHAM: I have them if you want  
20 them.  
21 MR. GOSSELIN: Actually, yeah, if I can.  
22 Thanks.  
23 BY MR. ALLINGHAM:  
24 Q. Miss Hobbs, you'll see on the agenda that there

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1 really was only one agenda item, which was potential  
2 or pending litigation number 05-01 PL. Do you see  
3 that?  
4 A. Yes, um-hum.  
5 Q. And if you look at the next page, you'll see  
6 that the meeting was called to order at 7:00 and the  
7 Board went into executive session at 7:01. It emerged  
8 from executive session at 11:15, about four hours and  
9 15 minutes later, and then adjourned one minute later  
10 at 11:16.  
11 Now, with those things in mind, that is,  
12 that this meeting occurred the night before the very  
13 large Board meeting, and with the fact reflected here  
14 that the entire meeting, except the call to order and  
15 the adjournment, was held in executive session, and  
16 with the fact that the subject of the executive  
17 session meeting of four hours and some minutes was  
18 potential or pending litigation 05-01 PL, do any of  
19 those facts give rise to an independent recollection  
20 in your mind that such a meeting occurred?  
21 A. Well, yes, it occurred. I mean here are the  
22 minutes.  
23 Q. Do you recall a meeting in 2004 at which you  
24 showed up, went into executive session a minute later,

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1 stayed in executive session for more than four hours  
2 to discuss litigation, and then came out and adjourned  
3 the meeting?  
4 A. Any other meeting that we've ever discussed  
5 potential litigation, is that what you're asking me,  
6 of any kind?  
7 Q. No. Is this, is this meeting reflected in  
8 these minutes, is this unusual to have a meeting of  
9 four hours and 16 minutes' duration, of which four  
10 hours and 14 minutes is spent in executive session  
11 discussing a single piece of litigation?  
12 A. I can't say that this -- I wouldn't say it's  
13 unusual. Many of our meetings go quite late in the  
14 evening. And for just one topic, sometimes we've  
15 often, we do one topic in order to keep us from there  
16 until 2 in the morning. But, so we've had executive  
17 sessions before on certain topics. Whether it's one  
18 or two, I really can't recall.  
19 Q. All right. If you look at other visitors and  
20 staff in attendance on this page, you'll see that you  
21 were in attendance at this meeting.  
22 A. Yes.  
23 Q. Also, Mr. Savage, Ms. Hearn, Mr. Miller and  
24 Mr. Griffin.

24 (Pages 90 to 93)

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1 **A. Um-hum.**  
2 Q. And is it your belief, based on these minutes,  
3 that Mr. Griffin was present at this meeting?  
4 **A. Yes.**  
5 Q. And if Mr. Griffin was present, would he have  
6 been there at your invitation?  
7 **A. Most likely mine, with consent of the Board**  
8 **president.**  
9 Q. Yes. Am I correct from these minutes that  
10 Mr. Neuberger was not in attendance at this meeting?  
11 **A. I don't know. I believe that Mr. Neuberger was**  
12 **in attendance at one meeting where Mr. Griffin was.**  
13 **But I don't, I don't know that it's this meeting or**  
14 **another meeting.**  
15 Q. Wouldn't you expect that if Mr. Neuberger was  
16 present at some of all of this meeting, that he would  
17 be reflected as other visitors and staff in  
18 attendance?  
19 **A. I would -- that would be the normal practice.**  
20 Q. All right. Now, I'm going to ask a couple of  
21 questions, and you have to take special care to pause  
22 before you answer, because Mr. Gosselin will probably  
23 want to interpose an objection, okay? Don't answer  
24 right away.

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1 **A. Thanks for the warning.**  
2 Q. Did Mr. Griffin advise the Board on the issues  
3 presented by this lawsuit during the executive session  
4 on August 23, 2004?  
5 **A. I would say he would be in the discussion and**  
6 **would advise the Board on what he thought was correct.**  
7 Q. Don't say what he said, just yes or no.  
8 **A. No, I don't recall what he said.**  
9 Q. Now, using this meeting as a guidepost, and  
10 working on the assumption that Mr. Griffin was in  
11 attendance at this meeting and Mr. Neuberger was not,  
12 and again, this is a meeting the night before the big  
13 Board meeting on August 24th, can you tell me whether  
14 you recall that Mr. Neuberger's appearance before the  
15 Board took place before or after this August 23rd  
16 meeting?  
17 **A. I'm sorry. I can't recall that.**  
18 Q. Okay. I'm going to show you a second document  
19 which we've marked as PX 13. These are the executive  
20 session minutes from the same night's meeting.  
21 **A. Okay.**  
22 Q. And you'll see again that you've signed these  
23 minutes, correct?  
24 **A. Yes.**

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1 Q. Most of the minutes are redacted, which is a  
2 lawyer's term for something having been removed, and  
3 you then stamp it "redacted" so that people will be  
4 able to see that something is missing.  
5 MR. GOSSELIN: It's the opposite of  
6 interlineate. Sort of.  
7 MR. ALLINGHAM: So interlineate minus  
8 redact equals zero.  
9 MR. GOSSELIN: That's right.  
10 BY MR. ALLINGHAM:  
11 Q. You will see that there's one paragraph that is  
12 not redacted from the minutes, which reads, "During  
13 the discussion of this issue, several Board members  
14 expressed that their constituents do not want the  
15 Board to change its practice of opening the meetings  
16 with a prayer."  
17 Can I correctly infer then that the topic  
18 of the issue discussed during this executive session  
19 was the Board's practice of opening its meetings with  
20 a prayer?  
21 **A. I would say you could infer that.**  
22 Q. Do you recall a meeting at which the Board's  
23 prayer policy was discussed in executive session?  
24 **A. I believe that we have discussed the Board's**

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1 **prayer and policy in executive session sometime.**  
2 Q. Once or more than once?  
3 **A. Once, I don't know if it's more than once.**  
4 Q. Miss Hobbs, in a discussion such as that, do  
5 you typically participate or do you sit quietly and  
6 listen?  
7 **A. I sometimes participate.**  
8 Q. Do you recall that you participated in the  
9 discussion of School Board prayer at the Board level?  
10 **A. I most likely probably did participate.**  
11 Q. All right. And can you tell me what you said?  
12 MR. GOSSELIN: Objection. And don't  
13 answer that question.  
14 The basis is attorney-client privilege.  
15 Mr. Griffin -- I mean I think it's been established,  
16 kind of in a roundabout way, that the discussion was  
17 the executive session meeting in which Mr. Griffin was  
18 present, and at least that much has been established  
19 by Mrs. Hobbs' testimony.  
20 MR. ALLINGHAM: I think that's a fair  
21 summary of what's, whether it's been established or  
22 not, I think it's a fair inference and I accept your  
23 point.  
24 But, for example, if Miss Hobbs said,

25 (Pages 94 to 97)

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1 "Well, you know, I think that we should have prayers  
2 of at least an hour's duration to open each meeting,"  
3 that's simply an expression of her opinion, not a  
4 request for advice or a, or the receipt of legal  
5 advice from Mr. Griffin. And so I could see an  
6 instruction that says please don't, you know, please  
7 don't reveal legal advice or request for legal advice.  
8 But I don't think it's an appropriate instruction  
9 simply to say on a blanket basis because Mr. Griffin  
10 is there, you can't testify about what was said.  
11 MR. GOSSELIN: I think I'd like to respond  
12 to that. I think there comes a point, though, where I  
13 should ask the witness to just, you know, step outside  
14 for a second because I don't want to, I don't want to  
15 color anything she might be saying.  
16 MR. ALLINGHAM: Fair enough. Let me ask a  
17 different question, I might come back to this one.  
18 I'll withdraw it for now, okay?  
19 BY MR. ALLINGHAM:  
20 Q. During the Board's discussion of School Board  
21 prayer, did you at any time offer any views of your  
22 own?  
23 MR. GOSSELIN: Objection. Again, the  
24 same -- I mean I think if you want to say what's, you

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1 know, what is your opinion? What do you think of it?  
2 It's, you know, I'll object to that because it's  
3 calling for her opinion on a matter that ultimately  
4 probably is not something that she can offer an  
5 opinion on.  
6 But as a matter of discovery, I wouldn't  
7 have an objection to it. My objection is when you  
8 place it in the context of a discussion involving an  
9 attorney.  
10 BY MR. ALLINGHAM:  
11 Q. Okay, well let's just make a record quickly on  
12 this, Miss Hobbs.  
13 First, please tell me everything you  
14 recall that you said during the discussion of School  
15 Board prayer at Board meetings.  
16 MR. GOSSELIN: At any Board meeting?  
17 MR. ALLINGHAM: Any Board meeting.  
18 MR. GOSSELIN: Okay, and my, my  
19 instruction is to --  
20 MR. ALLINGHAM: Well, I understand, I'm  
21 sorry.  
22 MR. GOSSELIN: -- to the extent that you  
23 can do that without saying what you said at this  
24 executive session meeting on August 23rd, 2004, you

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1 can answer.  
2 BY MR. ALLINGHAM:  
3 Q. Okay, let me see if I can address  
4 Mr. Gosselin's objection, and we'll make it a little  
5 easier for you I hope, too.  
6 First of all, can you separate whatever  
7 you said between meetings at which Mr. Griffin was  
8 present, or later on Mr. Balaguer or Mr. Cafferky were  
9 present, or Mr. Gosselin was present, on the one hand,  
10 and anything that you said at meetings where lawyers  
11 were not present?  
12 **A. I don't think I can.**  
13 Q. Okay. Now, let me ask you whether lawyers were  
14 present or not, would you please tell me everything  
15 you recall having said at a Board meeting about the  
16 School Board's prayer practice?  
17 MR. GOSSELIN: At a public Board meeting?  
18 MR. ALLINGHAM: Yes, at any public Board  
19 meeting.  
20 **A. I don't believe I said anything at a public**  
21 **Board meeting.**  
22 Q. Okay, would you now tell me everything that you  
23 recall having said at any executive session meeting?  
24 MR. GOSSELIN: Objection. And that one

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1 you do not have to answer.  
2 Q. I'd like a yes or no answer to this question:  
3 Did you at any time during an executive session  
4 express a view about the School Board's practice of  
5 opening its meetings with a prayer?  
6 MR. GOSSELIN: Objection. That one you  
7 don't have to answer either.  
8 MR. ALLINGHAM: Can't answer yes or no?  
9 MR. GOSSELIN: Well, I mean no.  
10 Objection. She doesn't have to answer that. I mean  
11 that's putting the rabbit in the hat, you know, when  
12 you met with your lawyer, at any time did you --  
13 MR. ALLINGHAM: Jason, if the answer is  
14 no, we can move on.  
15 MR. GOSSELIN: -- make a suggestion as to  
16 when you committed the crime, you know.  
17 MR. ALLINGHAM: If the answer is no, we  
18 can move on. That's all I was trying to get at.  
19 BY MR. ALLINGHAM:  
20 Q. I do not, in asking you this question, want you  
21 to reveal in any way advice from any lawyer  
22 representing the district, so please do not in your  
23 answer reveal any communications from a lawyer to you  
24 or from you to a lawyer that constituted a request for

26 (Pages 98 to 101)



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1 legal advice. Okay? You have the ground rules? Do  
2 you understand what I'm asking you to exclude?  
3 **A. I'll wait for the question.**  
4 Q. Okay. Excluding such communications, can you  
5 tell me anything that you said at the Board meeting in  
6 executive session regarding School Board prayer?  
7 MR. GOSSELIN: Objection. Don't answer  
8 that. I think now I might be confused about what the  
9 question is.  
10 That, to me, sounds like the question I  
11 just instructed her not to answer two questions ago.  
12 BY MR. ALLINGHAM:  
13 Q. Do you recall at any time board members  
14 expressing the view that their constituents did not  
15 want the Board to change its practice of opening the  
16 meetings with a prayer?  
17 **A. I think that's reflected in the minutes.**  
18 Q. Yes, it is. And my question to you is do you  
19 recall, do you recall that one or more Board members  
20 expressed that view?  
21 **A. Yes.**  
22 Q. Which Board members?  
23 **A. I don't recall.**  
24 Q. Do you recall any Board member expressing the

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1 opposite view; that is, that their constituents wanted  
2 the Board to consider changing its practice?  
3 **A. I don't recall.**  
4 Q. Do you recall any Board members saying, in  
5 words or substance, "I don't know what my constituents  
6 think"?  
7 **A. I don't recall.**  
8 Q. All right. You'll see that it then records,  
9 "It was not felt that a decision could be made this  
10 evening regarding whether or not to change our past  
11 practice." Do you see that?  
12 **A. Which?**  
13 Q. This is on the executive committee minutes.  
14 **A. Oh, okay.**  
15 Q. It's the last sentence of the only substantive  
16 paragraph.  
17 **A. Um-hum, um-hum.**  
18 Q. "It was not felt that a decision could be made  
19 this evening regarding whether or not to change our  
20 past practice."  
21 **A. Um-hum, I see that.**  
22 Q. Were you asked to do anything or to collect any  
23 information or to take any action to enable the Board  
24 to make a decision as to whether to continue its past

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1 practice?  
2 **A. I don't recall being asked to gather any**  
3 **information for the Board.**  
4 Q. Were you asked to get legal advice from a  
5 source other than Mr. Griffin?  
6 **A. I was not asked to get legal advice from**  
7 **someone else, that I recall.**  
8 Q. And to say it positively, you can testify today  
9 that you were not asked to get legal advice on this  
10 issue from anyone in addition to Mr. Griffin. Is that  
11 correct?  
12 **A. I don't believe I was at this time. I don't**  
13 **believe I was.**  
14 Q. Okay. Now, going forward until the first  
15 reading of the policy in September of 2004, do you  
16 recall that the Board asked you to get advice from  
17 someone other than Mr. Griffin on the issue of School  
18 Board prayer?  
19 **A. For me to actually call and contact another**  
20 **lawyer?**  
21 Q. Yes.  
22 **A. About School Board prayer? I don't recall**  
23 **that.**  
24 Q. Do you recall any discussion at the Board level

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1 of the possibility of getting advice from another  
2 lawyer than Mr. Griffin on School Board prayer?  
3 **A. I'm sure that they most likely have talked**  
4 **about other lawyers on advice on school -- any kind of**  
5 **prayer.**  
6 Q. And why are you sure about that? What makes  
7 you sure about that?  
8 **A. I mean because they're discussions. The**  
9 **discussions were about this, and, you know, most**  
10 **likely people are going to be looking for advice when**  
11 **they have an issue.**  
12 Q. You said most likely people were going to be  
13 looking for advice, they have an issue?  
14 **A. If they have an issue or when they have an**  
15 **issue.**  
16 Q. Okay.  
17 **A. I mean that's what I would call a normal thing**  
18 **to do.**  
19 Q. Well, do you recall any instance other than  
20 this one in which Board members expressed a desire to  
21 get advice from someone other than the School Board's  
22 attorney?  
23 **A. I would say it would be hard to separate what**  
24 **meeting, what time, when, you know. I can't do that.**

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1 Q. Other than this issue, that is the issue that  
2 came up in the summer of 2004 regarding School Board  
3 prayer and, more generally, prayer in the schools,  
4 that's an issue on which you recall there was  
5 discussion of getting advice from somebody other than  
6 Mr. Griffin, correct?  
7 **A. Um-hum.**  
8 Q. Yes, ma'am?  
9 **A. Yes.**  
10 Q. Okay. Do you recall any issue rather than that  
11 one on which the Board discussed wanting to get advice  
12 from someone other than Mr. Griffin?  
13 **A. I would say that, you know, it first started**  
14 **with graduation prayer.**  
15 Q. Yes.  
16 **A. So, you know, that was the policy we started**  
17 **working on.**  
18 Q. Yes.  
19 **A. So that would be Mr. Griffin's advice that they**  
20 **would have asked for. I'm not sure that they asked**  
21 **anybody else, or they didn't ask me to ask anyone**  
22 **else.**  
23 Q. Okay, well that --  
24 **A. No, it...**

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1 Q. And how about the policy on religion in  
2 schools, did any Board member ask you to get advice  
3 from any other lawyer on that policy?  
4 **A. Not any other lawyer. They -- the Policy**  
5 **Committee, I believe, asked for Mr. Griffin's advice**  
6 **on that.**  
7 Q. What's the basis for your belief that the  
8 Policy Committee asked for Mr. Griffin's advice?  
9 **A. Because I believe they were in contact with**  
10 **Mr. Griffin when they drafted that policy.**  
11 Q. Okay. Now let's come to the School Board  
12 prayer policy and the issue of School Board prayer.  
13 It's that issue where you recollect that Board members  
14 discussed getting additional legal advice other than  
15 Mr. Griffin, correct?  
16 **A. I believe so.**  
17 Q. Okay. Which Board members suggested getting  
18 additional legal advice?  
19 **A. I would think maybe Mr. Helms.**  
20 Q. Anybody else that you recall?  
21 **A. Not -- others may have chimed in, but I don't**  
22 **recall who they are.**  
23 Q. Tell me what you recall Mr. Helms said in that  
24 respect.

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1 **A. I think that the Board felt strong enough from**  
2 **this to keep their Board policy and they would look**  
3 **for other advice.**  
4 Q. You pointed at PX 13, the executive committee  
5 minutes. Do you recall that that discussion of other  
6 counsel took place during the executive session on  
7 August 23?  
8 **A. They most likely bounced some names around,**  
9 **organizations around that would support prayer in**  
10 **general.**  
11 Q. Do you recall what names they bounced around?  
12 **A. Not particularly.**  
13 Q. All right. When the, when the decision was  
14 made to adjourn the executive session, was there an  
15 agreed-upon path forward, if you will, to get that  
16 additional advice?  
17 **A. It's been a while. I mean there's -- I really**  
18 **can't say that there was a path forward. They were**  
19 **sort of going on their own in contacting people, I**  
20 **think, some of them.**  
21 Q. Was that normal practice for individual Board  
22 members to contact lawyers on a particular topic?  
23 **A. Well, with 10 Board members over the 10 years,**  
24 **people have contacted different people on different**

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1 **topics.**  
2 Q. Am I correct that individual Board members  
3 don't have the authority to retain lawyers for the  
4 district on their own?  
5 **A. Yes. That would have to be agreed through the**  
6 **Board on that. But --**  
7 Q. Okay.  
8 **A. -- contacting people of interest, I wouldn't**  
9 **hesitate to say that in the past they haven't talked**  
10 **to people about being interested in whatever position**  
11 **it is.**  
12 Q. And your understanding of the names being  
13 discussed at this August 23 Board meeting was  
14 organizations that generally would support prayer in  
15 schools, correct?  
16 **A. Yes.**  
17 MR. GOSSELIN: Objection.  
18 Q. Did Mr. Helms or anyone else express their  
19 reasons for wanting to get additional advice on this  
20 topic, other than from Mr. Griffin?  
21 MR. GOSSELIN: Objection. And you don't  
22 have to answer that.  
23 BY MR. ALLINGHAM:  
24 Q. Was anyone directed -- this would include you,

28 (Pages 106 to 109)

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1 but it wouldn't be limited to you -- was anyone  
2 directed to contact some lawyer or lawyers other than  
3 Mr. Griffin as a result of this August 23 meeting?  
4 **A. As I recall, different people who had heard of**  
5 **an organization or somebody may have said they would**  
6 **go ahead and contact those people.**  
7 Q. So one or more Board members, in effect,  
8 volunteered to contact some organizations?  
9 **A. I believe that's how it went, yes.**  
10 Q. Okay. And was there a report back to the Board  
11 at some point about the results of those contacts?  
12 MR. GOSSELIN: Objection, and you can  
13 answer just the question, if there was a report back  
14 to the Board. That's a yes or a no, I think.  
15 THE WITNESS: No, I wouldn't say a formal  
16 report was ever given.  
17 BY MR. ALLINGHAM:  
18 Q. I didn't mean for, you know, a written thing  
19 that said "Report" on the top. I meant did whoever  
20 volunteered to go out and contact someone tell the  
21 Board at a subsequent meeting what the results of that  
22 contact had been? Don't say what the results -- don't  
23 tell me the content of the results, just tell me yes  
24 or no, did they do that?

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1 **A. Yes.**  
2 Q. Okay. And do you recall which Board members  
3 reported back to the Board on the results of their  
4 contacts?  
5 **A. No.**  
6 MR. ALLINGHAM: Okay. Can I have 13 and  
7 14 back, Jason? Thanks.  
8 BY MR. ALLINGHAM:  
9 Q. At the -- let me show you what we've previously  
10 marked as Plaintiffs' Exhibit 34. We've had testimony  
11 from Mr. Helms that he faxed this material to  
12 Mr. Walls. The material, he testified, came to him  
13 from Mr. Neuberger or the Rutherford Institute. Does  
14 that refresh your recollection that Mr. Helms  
15 volunteered to contact the Rutherford Institute or  
16 Mr. Neuberger?  
17 **A. I believe I recall I said that Mr. Helms is the**  
18 **person who volunteered to call.**  
19 Q. And was it Mr. Neuberger or the Rutherford  
20 Institute that he volunteered to contact?  
21 **A. I'm not sure which ones. There were several**  
22 **batted around institutes. I'm sure if he said he did,**  
23 **he volunteered to do it.**  
24 Q. Do you know where the text of PX 9, the final

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1 Board policy, came from?  
2 **A. No, I do not.**  
3 Q. Look, please, at page, the second page of the  
4 attachment. In the last whereas clause before the  
5 bottom of the page, it reads, "The School Board has  
6 obtained the legal advice of two competent and  
7 experienced constitutional attorneys, John Whitehead,  
8 Esquire, and Thomas Neuberger, Esquire, that prayer to  
9 open Board meetings is constitutional in the United  
10 States Court of Appeals for the Third Circuit which  
11 includes Delaware, and legal counsel have identified  
12 the following legal authority in support of their  
13 legal opinion."  
14 My question to you, Miss Hobbs, is do you  
15 recall that the School Board obtained the legal advice  
16 of John Whitehead and Tom Neuberger that prayer to  
17 open Board meetings is constitutional?  
18 **A. I don't -- I don't recall they obtained --**  
19 MR. GOSSELIN: Objection, objection, wait  
20 a minute. It takes me a second sometimes to process  
21 your questions.  
22 I think the first part of that is fine  
23 when you include advice in the question itself, the  
24 yes or no answer. As to whether the Board retained

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1 those two lawyers then seeks attorney-client  
2 privileged material, potentially privileged material.  
3 Does my objection make sense to you? I  
4 stated I instruct her not to answer, but I don't have  
5 a problem with the whole question.  
6 MR. ALLINGHAM: Excepting for purposes of  
7 argument your notion that the answer to my question  
8 might reveal attorney-client privileged information,  
9 it seems to me that by the design of the question it  
10 has quite clearly been waived, since I asked about  
11 advice from the two people who are said to have  
12 authored this document in a piece of paper, described  
13 in a piece of paper that's been produced to us and  
14 which almost every witness has testified about without  
15 objection as to the attorney-client privilege, so I  
16 think there's a pretty clear waiver.  
17 You can't use the privilege as a sword and  
18 a shield for purposes of showing me advice that's  
19 favorable to your side but concealing advice that's  
20 not so favorable to your side on a particular topic.  
21 MR. GOSSELIN: That was produced because  
22 this was drafted with the intention of it being, you  
23 know, widely distributed, and there's that reference  
24 in there. That's why we produced it.

29 (Pages 110 to 113)



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1 But, and the document says what it says.  
2 MR. ALLINGHAM: And I think I'm entitled  
3 to test whether what it says is true or not.  
4 I'll withdraw the question and pose it  
5 what is arguably a different question, okay?  
6 BY MR. ALLINGHAM:  
7 Q. Follow along with me. In that last whereas  
8 clause on page 2 of Exhibit 34, it says, "The School  
9 Board has obtained the legal advice of two competent  
10 and experienced constitutional attorneys," and then it  
11 names them, "that prayer to open Board meetings is  
12 constitutional." Is that statement true?  
13 MR. GOSSELIN: Objection, you can, you can  
14 answer it, if you know.  
15 **A. This is a fax to Mr. Walls. I don't -- advice**  
16 **was coming from lots of people, I guess. I'm not sure**  
17 **that we obtained, you know, we paid these lawyers**  
18 **anything for this advice. And they gave us free**  
19 **advice, perhaps, in this memo obviously to Mr. Walls**  
20 **from Mr. Helms. But I didn't construct the policy or**  
21 **I don't recall this memo being copied to me.**  
22 Q. All right. Let me ask a preliminary question.  
23 Have you ever seen this document before?  
24 **A. No, I can't say that I have.**

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1 Q. Mr. Helms testified he sent it to Mr. Walls.  
2 **A. Right.**  
3 Q. I haven't taken Mr. Walls' deposition yet. But  
4 typically, if a Board member sent something to  
5 Mr. Walls, would he give it to you for inclusion in  
6 the Board package?  
7 **A. Not typically. I mean it happens, you know. I**  
8 **would prefer it that way, but it doesn't always happen**  
9 **that way. So I imagine Mr. Walls was ahead of the**  
10 **Policy Committee and he was sending this to help him**  
11 **write the policy.**  
12 Q. Let me ask you a different question. Does the  
13 district maintain files of the Board packages that are  
14 sent to Board members for each meeting?  
15 **A. Yes.**  
16 Q. Okay. And how far back do those files go?  
17 **A. They go quite far back. I don't know, we sent**  
18 **a lot of, of those Board packets, I believe, to your**  
19 **office. Or the first lawyers asked us for our**  
20 **minutes, and usually in the minutes in those boxes the**  
21 **documents are included, to back the minutes.**  
22 Q. I see. So that in your files of the minutes  
23 you would also have probably right behind the minutes  
24 the Board package?

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1 **A. Packet, yes, the information that's in the**  
2 **Board packet.**  
3 Q. You'll see that the fax from Mr. Helms to  
4 Mr. Walls is dated September 2, 2004?  
5 **A. Yes.**  
6 Q. Does that in any way refresh your recollection  
7 about when Mr. Neuberger appeared before the Board?  
8 **A. No. I'm sorry.**  
9 Q. I'm going to show you what we've previously  
10 marked as PX 11. Have you ever seen that document  
11 before?  
12 **A. It's, seems like the same policy of the five**  
13 **whatever bullets, except the one paragraph.**  
14 Q. I will agree with you that that's what it is.  
15 Do you recall ever having seen it before?  
16 **A. I've, I've seen the one separated. I'm not**  
17 **sure that I saw this one unless this is the one that**  
18 **they finally put in the policy book.**  
19 Q. The PX 9, which I showed you earlier, the five  
20 numbered paragraphs, that's the final policy.  
21 **A. Final one, yeah.**  
22 Q. Do you have any recollection of having seen PX  
23 11, which is the text of that policy but not in  
24 numbered paragraphs?

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1 **A. I, I could have seen it. I don't know.**  
2 Q. Previous witnesses have testified that when  
3 Mr. Neuberger offered his services to the Board and  
4 those services were declined, one reason for the  
5 Board's declining his offer was that it came  
6 accompanied by an ultimatum that the Board had to  
7 retain him that night or else his offer was withdrawn.  
8 Do you recall that?  
9 **A. I do recall that.**  
10 Q. All right. Can you -- is that an accurate  
11 description of how the, how events unfolded that  
12 evening?  
13 **A. Yes.**  
14 Q. All right. And am I correct that at least as  
15 of that evening, it was quite clear that the Board  
16 would not be seeking legal advice from Mr. Neuberger  
17 on these issues?  
18 **A. Yes.**  
19 Q. Okay. Let me show you what we've previously  
20 marked as PX 36. Miss Hobbs, if you look about  
21 halfway down the page on the right, you'll see a  
22 numeric, alphanumeric code, BPD 00053. Do you see  
23 that?  
24 **A. Yes.**

30 (Pages 114 to 117)

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1 Q. I will represent to you that that BPD  
2 designation means that the document was produced from  
3 the files of the district.  
4 **A. Okay.**  
5 Q. Okay? It has a fax line at the top showing  
6 that it, appearing to show that it was faxed by the  
7 Neuberger firm on August 19th, 2004, at 9:31 in the  
8 morning. Do you recall ever seeing this document?  
9 **A. Well, that isn't our number at the top it's**  
10 **faxed to.**  
11 Q. That is not your number?  
12 **A. 302-655-9329?**  
13 Q. Yes.  
14 **A. Not, none -- ours are all 436-1000 on down the**  
15 **line.**  
16 Q. I believe that number to be Mr. Neuberger's  
17 number.  
18 **A. Okay, could be Mr. Neuberger's, or if it was**  
19 **through Mr. Helms, we -- I probably, we probably got a**  
20 **copy of this document, a press release I believe it**  
21 **is, from Mr. Neuberger.**  
22 Q. And do you know whether this press release was  
23 ever issued?  
24 **A. I really can't say if it was or wasn't.**

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1 Q. Were you asked to review this document and  
2 ensure that it was accurate?  
3 **A. This document?**  
4 Q. Yes.  
5 **A. No.**  
6 Q. Do you recall seeing this document at or about  
7 the date that it bears, August 19th, 2004?  
8 **A. I have seen this document. Whether it was on**  
9 **that date or later than that date, I'm not sure.**  
10 Q. And did you review the document?  
11 **A. I read it. I wouldn't call it review.**  
12 Q. Did you identify any portion of the document  
13 that you thought was inaccurate?  
14 **A. No.**  
15 Q. If you look at the bottom of the page, the last  
16 paragraph, after some pithy descriptions of  
17 Mr. Neuberger's qualifications, there's a paragraph  
18 that reads, "If the Indian River School Board wants to  
19 fight for its rights, Stephen and I," Stephen  
20 Neuberger is Mr. Neuberger's son; is that correct? Do  
21 you know that?  
22 **A. I would imagine. I don't know for sure.**  
23 Q. "Stephen and I and the full resources of TRI,"  
24 that's the Rutherford Institute, "are available to

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1 them to see that this issue is properly and fully  
2 litigated and that their rights are not lost by  
3 default."  
4 Does that refresh your recollection about  
5 the date on which Mr. Neuberger offered his services  
6 to the Board?  
7 **A. The exact date, no.**  
8 Q. Yes. Does it refresh your recollection that it  
9 was on, it was on or about August 19th, 2004?  
10 **A. I don't know when Mr. -- I can't tell you the**  
11 **exact date when Mr. Neuberger came to talk to the**  
12 **Board.**  
13 Q. Look at the first paragraph of text in this  
14 exhibit. I apologize, the second paragraph of text.  
15 It reads, "The Indian River School Board has  
16 historically opened its meetings with a nonsectarian  
17 prayer." Is that an accurate statement?  
18 **A. Yes, I would say it is.**  
19 Q. And that's based on your 10 years of attendance  
20 at Board meetings?  
21 **A. Yes.**  
22 MR. ALLINGHAM: All right. I'm going to  
23 ask the court reporter to mark as PX 59 a letter dated  
24 October 23, 2006 from Jeffrey Boerger of the Drinker

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1 Biddle firm to me, and attached to it is a privilege  
2 log of 15 pages having a total of 122 entries.  
3 (Plaintiffs' Exhibit No. 59 was marked for  
4 identification.)  
5 BY MR. ALLINGHAM:  
6 Q. Miss Hobbs, this is a, a description prepared  
7 by your lawyers identifying documents as to which a  
8 claim of privilege has been made. So these documents  
9 have not been given to our side and the practice is to  
10 identify them in what's called a privilege log, that's  
11 this document. It can provide sometimes information  
12 about -- information that can be helpful in  
13 pinpointing the time of events, even though we don't  
14 have the documents themselves.  
15 I'm again going to try to establish  
16 parameters for when the Neuberger firm, or  
17 Mr. Neuberger, appeared before the Board. The first  
18 parameter, which I'll just represent to you for the  
19 time being, this is, it's reflected in PX 18, the  
20 minutes of the September 28, so September 28, nearly  
21 the end of September 2004 Board meeting, that is the  
22 point at which the first reading of the Board prayer  
23 policy was given. Okay? So September 28th is the  
24 first reading.

31 (Pages 118 to 121)

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1 I'm going to show you entries in this log  
2 that relate to communications from or to  
3 Mr. Neuberger. The first one is dated -- and it's  
4 entry number 68, so if you'll turn to entry number 68.  
5 There is an entry showing a fax from Reggie Helms to  
6 Janet Hearn dated August 18, 2004 regarding legal  
7 issues with handwritten notes. This document does not  
8 specifically reflect any involvement of Mr. Neuberger  
9 or the Rutherford Institute, but I point it out to you  
10 in order to show you the next item, which is No. 71.  
11 No. 71 is an August 19th, 2004 fax from  
12 you to Mr. Griffin forwarding an August 18, 2004  
13 letter from Mr. Neuberger regarding legal  
14 representation. Do you see that?  
15 **A. Yes.**  
16 Q. Do you recall having gotten a letter from  
17 Mr. Neuberger dated in the middle of August and  
18 forwarding it to Mr. Griffin?  
19 **A. Well, according to the notes I did.**  
20 Q. Do you have any doubt that you got this  
21 document dated August 19th forwarding August 18th?  
22 **A. I would imagine that we did that. I don't**  
23 **recall what it said but --**  
24 Q. I'll represent to you -- and also, would you

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1 look at item 69, which is a fax forwarding an August  
2 18, 2004 letter from Thomas Neuberger regarding legal  
3 representation, and it's forwarded from you to  
4 Mr. Walls and Mr. Helms. Do you see that?  
5 **A. Yes, I see that.**  
6 Q. All right. I earlier showed you Exhibit 36,  
7 the press release from the Neuberger firm.  
8 **A. Um-hum.**  
9 Q. Which is dated August 19th, 2004.  
10 **A. Right.**  
11 Q. Looking at the privilege log, can you confirm  
12 that Mr. Neuberger sent a letter regarding legal  
13 representation to you on the 18th and then faxed to  
14 the district or one of the Board members the press  
15 release that we've looked at one day later?  
16 **A. I can't recall that.**  
17 Q. Do you know why Mr. Helms would have sent a fax  
18 regarding legal issues with handwritten notes to  
19 Mrs. Hearn on August 18th, 2004?  
20 **A. I believe that he would have been in contact**  
21 **with Mr. Neuberger.**  
22 Q. Okay. Do you know what this fax regarding  
23 legal issues with handwritten notes was?  
24 **A. Not without seeing it.**

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1 Q. Do you know whether it was that it, that is the  
2 content of the fax, the document that was being faxed,  
3 was prepared by Mr. Helms, as the privilege log  
4 reflects?  
5 **A. If the log says that, but I don't --**  
6 Q. You don't know, do you?  
7 **A. I really don't know who wrote what here.**  
8 Q. All right. And I take it --  
9 **A. Without seeing it.**  
10 Q. And I take it you don't know whose handwritten  
11 notes are reflected on that document?  
12 **A. No, I don't.**  
13 Q. The next document reflecting communications  
14 from Mr. Neuberger is item 72.  
15 **A. Um-hum.**  
16 Q. Which is an August 24, 2004 e-mail from  
17 Mr. Neuberger to his son, Mr. Whitehead, and  
18 Mr. Helms, and the description is, "E-mail providing  
19 legal analysis and advice." Do you recall ever  
20 getting an e-mail from Mr. Neuberger to Mr. Helms;  
21 that is, getting a copy of that e-mail?  
22 **A. No.**  
23 Q. Do you know whether that e-mail was forwarded  
24 by Mr. Helms to any members of the Board?

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1 **A. No, I can't say that I do.**  
2 Q. If you look at item 109 on the privilege log --  
3 **A. Unless we put it in the packet, I don't know.**  
4 Q. Item 109 is an August 24, 2004 -- are you with  
5 me?  
6 **A. Um-hum.**  
7 Q. August 24, 2004 fax forwarding an e-mail from  
8 Thomas Neuberger providing legal analysis and advice.  
9 It's from Mr. Helms to Mr. Walls.  
10 **A. Right.**  
11 Q. Do you know whether that document, that is, the  
12 e-mail on August 24th, is the report from Mr. Helms on  
13 what he learned from Mr. Neuberger having volunteered  
14 to go find out from Mr. Neuberger at the August 23rd  
15 meeting which we just discussed?  
16 MR. GOSSELIN: Objection. Don't answer  
17 that.  
18 I mean we tried to give you what we're  
19 obligated to give you on a privilege log as far as a  
20 description of the document goes. I don't know that  
21 it's appropriate to try to get a further description  
22 of it in a deposition.  
23 MR. ALLINGHAM: On some issues, Jason, we  
24 clearly have a different point of view. I've tried to

32 (Pages 122 to 125)



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1 be careful in letting you make your objections, and I  
2 hear your objection and instruction.  
3 BY MR. ALLINGHAM:  
4 Q. Do you know whether Mr. Neuberger's e-mail  
5 was -- first of all, did you ever see Mr. Neuberger's  
6 e-mail of August 24 providing legal analysis and  
7 advice?  
8 **A. I don't recall that I have seen that.**  
9 MR. ALLINGHAM: Okay, we need to change  
10 the tape.  
11 THE VIDEOGRAPHER: Going off the record at  
12 approximately 12:20 p.m.  
13 (A brief recess was taken.)  
14 THE VIDEOGRAPHER: We are back on the  
15 record at approximately 12:26 p.m.  
16 BY MR. ALLINGHAM:  
17 Q. When we left off, Miss Hobbs, we had looked at  
18 an August 24 fax from Mr. Helms to Mr. Walls  
19 forwarding Mr. Neuberger's legal advice. The next  
20 Neuberger document I have is the, is the fax we looked  
21 at earlier, which is Exhibit 34.  
22 **A. Um-hum.**  
23 Q. That's a fax from Mr. Helms to Mr. Walls  
24 forwarding a document which on its face is dated

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1 August 30, 2004, and is said to have been prepared by  
2 the Rutherford Institute and the Neuberger firm. If  
3 you look at the top of the left second, second page of  
4 the document, you'll see that. Okay?  
5 **A. Second page of the document?**  
6 Q. It's the first page of the, of the document,  
7 second page of the exhibit. At the top you'll see  
8 it's dated 8-30-04 and it's prepared --  
9 **A. Am I looking at the right document?**  
10 Q. Yes.  
11 **A. I see a date of 9, 2nd, '04.**  
12 Q. Yes, and if you look at the material in  
13 brackets on the top left, it says "Released to the  
14 general public, proposed School Board prayer  
15 resolution dated 8-30-04"?  
16 **A. I'm sorry. I can't see it.**  
17 Q. The top left. Under the fax line, the first --  
18 **A. Oh, okay. "General public," I'm sorry. Yes, I**  
19 **see it.**  
20 Q. You see it?  
21 **A. Um-hum.**  
22 Q. Let me ask you a question. Mr. Gosselin has  
23 represented to me helpfully off the record that he  
24 believes that at the August 23rd meeting, that's the

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1 very long executive session meeting that we looked  
2 at --  
3 **A. Right.**  
4 Q. -- that Mr. Griffin was there in person and  
5 Mr. Neuberger was there by telephone. Do you recall  
6 that?  
7 **A. I hate to be this -- I, I don't recall that. I**  
8 **mean maybe he was. But I'm sorry, but...**  
9 Q. The next item is item 108. This is described  
10 as the author being Thomas Neuberger, the description  
11 is packet of information provided to Board members in  
12 connection with legal representation. And the date is  
13 September 15th, 2004.  
14 Do you remember Mr. Neuberger providing a  
15 packet of information to Board members in connection  
16 with legal representation?  
17 **A. I would imagine if this says he did, he did.**  
18 **But I don't know if he did it through Board members**  
19 **that gave it out or if we gave it out at our district**  
20 **office.**  
21 Q. All right. If you gave it out through the  
22 district office, am I correct that it would have been  
23 included in the Board package?  
24 **A. Yes, I believe it would be.**

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1 Q. Okay. And am I correct that the district --  
2 the files that the district maintains of Board  
3 packages would extend back at least through September  
4 of 2004?  
5 **A. Yes.**  
6 Q. Okay. Item No. 110 is a, is described as a  
7 memorandum regarding legal representation from  
8 Mr. Hastings to fellow Board members dated August 23,  
9 2004. Do you recall Mr. Hastings providing a memo to  
10 his colleagues on the topic of legal representation?  
11 **A. I don't -- I just know that several people were**  
12 **talking about legal representation. I don't know that**  
13 **he provided, if he provided it on his own or gave it**  
14 **through our district office in the packet.**  
15 Q. You don't know?  
16 **A. I don't remember.**  
17 Q. Do you remember, however it was distributed, a  
18 memo from Mr. Hastings on this topic?  
19 **A. I don't know -- I don't recall seeing a memo**  
20 **from Mr. Hastings on this topic.**  
21 Q. That item 108 is the last item from  
22 Mr. Neuberger until item 6, which is more than a year  
23 later, in November of 2005. If you look at item 6  
24 it's on the first page of the log. Item 6 is authored

33 (Pages 126 to 129)

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1 by Tom Neuberger, it's sent to Mr. Helms, Mr. Stephen  
2 Neuberger and Mr. Whitehead dated on the 42nd  
3 anniversary of President Kennedy's assassination,  
4 November 22, 2005. And it's a letter providing legal  
5 advice, legal analysis and advice.  
6 Miss Hobbs, am I correct that by November  
7 22, 2005, Mr. Neuberger had been retained to represent  
8 Mr. Helms individually?  
9 **A. I don't know the exact date, but I do know he**  
10 **was obtained by Mr. Helms.**  
11 Q. And do you know whether Mr. Helms has submitted  
12 to the Board any legal bills from Mr. Neuberger for  
13 that representation?  
14 **A. Not that I recall.**  
15 Q. All right. So you've now seen every log entry  
16 that relates to advice from Mr. Neuberger. They are  
17 in a tightly bunched group from August 18th, 2004 to  
18 September 15th, 2004, all in advance of the first  
19 reading of the Board prayer policy, and then a single  
20 item No. 6 more than a year later. Does that tight  
21 bunching of materials from Mr. Neuberger from  
22 mid-August to mid-September tell you anything about  
23 when Mr. Neuberger appeared before the Board?  
24 **A. I do not know the exact date that Mr. Neuberger**

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1 **appeared in front of the Board.**  
2 Q. Without regard to whether you know the exact  
3 date, does it tell you that Mr. Neuberger appeared  
4 before the Board sometime between August 18th, the  
5 date of his first communication, and September 15th,  
6 the date of his last communication before the adoption  
7 of the Board policy?  
8 **A. I would be guessing.**  
9 Q. What is the process that the district uses to  
10 retain a lawyer?  
11 **A. Normally the process is we put a request for**  
12 **proposal out and lawyers apply.**  
13 Q. Okay. In a situation like this where you're  
14 looking for advice on a specialized topic, what's the  
15 process for looking for a lawyer to retain?  
16 **A. Actually, I believe this would be our only**  
17 **experience with this, and I think people just went on**  
18 **the fact that they knew such and such, so and so**  
19 **organization and they would go see, contact them, or**  
20 **somebody had contacted them. They may not have been**  
21 **the first contact, which was an unusual.**  
22 Q. And I think we touched on this earlier, but am  
23 I correct that you have no recollection of being  
24 involved yourself in seeking out legal advice from

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1 someone other than Mr. Griffin on this topic?  
2 **A. I do not recall, unless they asked me to call**  
3 **somebody, but I don't recall. I didn't make**  
4 **suggestions of who to contact, I know that.**  
5 Q. All right, I'm going to show you entries on the  
6 log that relate to communications from you.  
7 **A. Okay.**  
8 Q. Item 7 is a fax from you to Mr. Griffin dated  
9 September 24 requesting legal analysis and advice.  
10 **A. Okay.**  
11 Q. I'm assuming that you don't specifically recall  
12 that document, that fax.  
13 **A. No.**  
14 Q. All right. Item 41 is a fax dated January 5,  
15 2006 from you to Mr. Griffin requesting legal analysis  
16 and advice. Do you know the topic of the legal  
17 analysis and advice that you asked Mr. Griffin for in  
18 that fax?  
19 **A. I'd have to see it, really. I can't recall**  
20 **these, in a thing of business, how many faxes or**  
21 **whatever you send.**  
22 Q. Item 74 is a request from you to Mr. Griffin  
23 for legal analysis and advice dated August 10, 2004.  
24 Do you know the topic of that request for advice?

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1 **A. Could have been on graduation exercises. It's**  
2 **when the, right after the complaint happened in June,**  
3 **so could have been on Board prayer. I don't know.**  
4 Q. Was Mr. Griffin the first lawyer that you asked  
5 for advice on those topics?  
6 **A. Yes.**  
7 Q. Okay. Item 61 is a fax from you to Beth at ADF  
8 requesting legal analysis and advice dated October  
9 5th, 2004. Do you know what ADF is?  
10 **A. No.**  
11 Q. Have you heard of the Alliance Defense Fund?  
12 **A. Oh. I can't recall what the fax said.**  
13 Q. Have you heard of the Alliance Defense Fund?  
14 **A. Yes, I guess I've heard of it.**  
15 Q. Did you request legal analysis and advice from  
16 someone named Beth at the Alliance Defense Fund?  
17 **A. I don't know that I did. I mean obviously I**  
18 **did if this says I did, but I don't remember what kind**  
19 **of advice or what I was asking for. Could have been**  
20 **follow-up of somebody saying they heard they would**  
21 **help us, so send them something. I don't know.**  
22 Q. Well the log says --  
23 **A. I mean it's hard to go back two years and say**  
24 **what this is and what you said.**

34 (Pages 130 to 133)

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1 Q. Yes, ma'am.  
2 **A. I mean I do more for the school district than**  
3 **fax out things about religion.**  
4 Q. Yes, ma'am. And I understand that this is a --  
5 this relates to events of a couple of years ago. I,  
6 on the other hand, have a privilege log which gives me  
7 very little information about these documents.  
8 **A. Right.**  
9 Q. The log says precisely what it says. My  
10 question to you was, do you have a recollection of --  
11 independent of the log, of having requested legal  
12 analysis and advice from someone named Beth at the  
13 ADF?  
14 **A. No.**  
15 Q. Did requests for legal advice ever get made  
16 through Mrs. Hearn's?  
17 **A. That wouldn't be a normal course of event.**  
18 Q. Item 64. The author is Lois Hobbs, the  
19 recipient is Nathan Kellum, the date is January 4,  
20 2005. And it's a fax requesting legal analysis and  
21 advice. Do you recall, as you sit here today, having  
22 requested legal analysis and advice from Mr. Kellum of  
23 the ADF?  
24 **A. No, I don't recall.**

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1 Q. Am I correct that if you made a request to  
2 Mr. Kellum, or to Beth, or to Mr. Cafferky or to  
3 Mr. Griffin, you could not have done so without  
4 authorization from the Board?  
5 **A. Well, with Mr. Cafferky when we were starting**  
6 **to work on the case, he would be asking me things, I**  
7 **guess I would be asking him things. I'm not sure that**  
8 **I would ask permission for the Board every time I**  
9 **talked to Mr. Cafferky.**  
10 Q. Okay. Let me set aside Mr. Cafferky. Am I  
11 correct that you would not have contacted Mr. Kellum  
12 or Beth at the Alliance Defense Fund without  
13 authorization from the Board?  
14 **A. I would say rather than authorization, one of**  
15 **the Board members may have given me that person's name**  
16 **to contact, not necessarily a vote of all 10 Board**  
17 **members.**  
18 Q. Mr. Savage worked under your supervision; is  
19 that right?  
20 **A. Yes.**  
21 Q. Would it be typical for Mr. Savage to request  
22 legal advice from counsel for the district?  
23 **A. Yes.**  
24 Q. Item 1 on the privilege log is from Rebecca

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1 Trifillis. Do you know who she is?  
2 **A. I believe she's the assistant lawyer with**  
3 **Mr. Griffin.**  
4 Q. All right.  
5 **A. References.**  
6 Q. It reflects, item 1 reflects a June 15, 2004  
7 legal memorandum or memorandum providing legal  
8 analysis and advice to you and Mr. Griffin from  
9 Ms. Trifillis. I will represent to you that that is  
10 the earliest legal advice that we have found reflected  
11 on the log. Does that -- as a general proposition,  
12 does that comport with your recollection as to when  
13 you first requested legal advice from Mr. Griffin on  
14 this topic?  
15 **A. I believe so. I believe that was right after**  
16 **our complaint about graduation and most likely, those**  
17 **were about graduation policies that we worked on**  
18 **immediately to change or to bring in, you know, to**  
19 **have him look at for us.**  
20 Q. Item 4 is another memo from Ms. Trifillis to  
21 you and Mr. Griffin dated a little more than a month  
22 later on July 20, 2004, again described as a  
23 memorandum providing legal analysis and advice. Did  
24 you ask for another analysis from the Griffin firm?

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1 **A. I don't recall that I did.**  
2 Q. Am I correct, Miss Hobbs, that you continued to  
3 seek advice on these issues from Mr. Griffin  
4 throughout the course of this litigation?  
5 **A. I would talk to the Board lawyer about any**  
6 **advice on any situation. So until other lawyers, as**  
7 **the insurance company lawyers came into the picture, I**  
8 **mean he would be the one I would be seeking advice**  
9 **from.**  
10 Q. Did there come a time when Mr. Griffin was told  
11 that he should not speak for the Board on issues  
12 relating to the Dobrich and Doe family complaints?  
13 **A. I believe when the insurance company's lawyers**  
14 **took over the case, he wasn't speaking for the Board**  
15 **for the case.**  
16 Q. And was he told that he should not speak for  
17 the Board?  
18 **A. I don't recall him being told that, but I know**  
19 **they copied him some things, I believe.**  
20 Q. All right. All right, look at items 34 and 35,  
21 please. 34 is a November 16, 2004 fax to Nathan  
22 Kellum at the ADF requesting legal analysis and  
23 advice, and 35 is a November 16, 2004 fax to James  
24 Griffin requesting legal analysis. Is that the same

35 (Pages 134 to 137)



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1 document, just addressed to different lawyers?  
2 **A. I don't know at this point. I mean I, I would**  
3 **have to see the document.**  
4 Q. Do you recall that you were asking multiple  
5 lawyers for advice on the same topic during the course  
6 of the consideration of the issues in this lawsuit?  
7 **A. I believe that ADF may have been -- a Board**  
8 **member made the initial contact with them and wanted**  
9 **me to follow up with some things to them.**  
10 Q. Did you ever feel like the Board was shopping  
11 for legal advice on these issues?  
12 **A. Shopping in what way?**  
13 Q. Looking for an opinion that would suit its  
14 desires.  
15 **A. I don't believe that I can answer that. I**  
16 **don't know what the Board's reason for looking for**  
17 **lawyers.**  
18 Q. No, no. I asked you did you ever feel like  
19 that's what they were doing?  
20 **A. They were looking for representation.**  
21 Q. Did you ever feel like they were looking for a  
22 lawyer that would give them the opinion that they  
23 wanted?  
24 **A. No, not really.**

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1 Q. Did you ever form an opinion as to why the  
2 Board wanted opinions from other lawyers than  
3 Mr. Griffin on these topics?  
4 **A. I -- if there would be any opinion of mine, it**  
5 **would be to find somebody that they wouldn't go broke**  
6 **with, you know, somebody that would help them legally**  
7 **without spending a lot of money. That's what I would**  
8 **think they would have been doing.**  
9 Q. Is that what they told you?  
10 **A. No. That's -- you asked my opinion.**  
11 Q. Look, please, at item No. 76. There's no date  
12 on this document. It's a copy of a complaint with  
13 handwritten notes by Lois Hobbs. Do you recall having  
14 put handwritten notes on a copy of the complaint in  
15 this case?  
16 **A. Of a complaint in this case?**  
17 Q. Yes.  
18 **A. I could -- sometimes I write handwritten notes**  
19 **on, you know, if, if there is a telephone call and I'm**  
20 **doing the conversation, I would write handwritten**  
21 **notes, or if I'm talking to somebody I sometimes jot**  
22 **down handwritten notes. That could be it.**  
23 Q. When you saw a copy of the complaint in this  
24 case, did you make notes on it as to what you recalled

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1 about the events described in that complaint?  
2 **A. If it would be a complaint, it would be talking**  
3 **to the parent directly, and I would write notes down**  
4 **on what they complained about me, not the complaint**  
5 **as... I would read through the complaint, and I may**  
6 **have made notes on thoughts because we had to answer**  
7 **those. I don't know, there was quite a number of**  
8 **questions that we provided the big book for which took**  
9 **a lot of my time.**  
10 Q. You referred earlier to this big book. What  
11 was it?  
12 **A. I don't know, it was the complaint with all the**  
13 **80-some things or 70-some things, and we tried to**  
14 **answer each one of those things or give an answer back**  
15 **on what we were doing.**  
16 Q. And when you say "we," you're talking about you  
17 and the other defendants?  
18 **A. Yeah. If they complained about a school doing**  
19 **this or that, we tried to find out what the school was**  
20 **doing and answer them. But that was more than Board**  
21 **prayer.**  
22 Q. All right. And when you refer to the complaint  
23 in that answer, are you referring to a pleading in the  
24 litigation that would look like that that would have a

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1 caption on it?  
2 **A. Yeah, I mean it was the long complaint, yeah.**  
3 Q. Okay. And you and your fellow defendants put  
4 together some book that had all of what you all could  
5 remember about the allegations in the complaint?  
6 **A. Yes, and gave it to Mr. Cafferky.**  
7 Q. When did Mrs. Dobrich first contact you about  
8 the commencement exercises at Sussex Central?  
9 **A. On the graduation stage, the night of**  
10 **graduation.**  
11 Q. And did her complaint that day ultimately  
12 expand into a complaint about School Board prayer?  
13 **A. Not on that day. She --**  
14 Q. No, I didn't mean on that day.  
15 **A. Her original complaint to me was the**  
16 **graduation -- the prayer at graduation and the**  
17 **reverend who gave the prayer.**  
18 Q. Over the course of the next two months at  
19 which, during which Mrs. Dobrich appeared three times  
20 before the Board, do you recall that her, the subject  
21 of her complaint expanded to include School Board  
22 prayer?  
23 **A. I believe I recall her saying one time to, I**  
24 **think it was Mr. Evans, that if he had ended the**

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1 **prayer without Jesus, that would have been an okay**  
2 **prayer with her. That -- but as far as until I saw**  
3 **the whole complaint, knowing that it was moved to**  
4 **School Board prayer, I didn't know.**  
5 Q. Well, you saw on August 23 in the executive  
6 session that at least by that date the Board  
7 understood that the complaint had to do with School  
8 Board prayer, correct?  
9 **A. Yes.**  
10 Q. Okay. And was the Board discussing this in  
11 response to complaints from anyone other than  
12 Mrs. Dobrich?  
13 **A. No.**  
14 Q. When Mrs. Dobrich contacted you at the  
15 graduation, what did you tell her?  
16 **A. I told her to -- she was -- at first I thought**  
17 **she was a happy parent that her child had graduated**  
18 **because she kept saying, "Thank you, thank you." But**  
19 **then she was screaming it in my face and getting very**  
20 **close to my face. And I said, "Please contact my**  
21 **office. We can't talk about this right now," or**  
22 **something like that.**  
23 Q. Did you understand what the nature of her  
24 complaint was?

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1 **A. Finally, when she said, "Thank you," something,**  
2 **I don't know the exact words, but "Thank you for**  
3 **having my child subjected to Jesus her whole life," or**  
4 **something like that. I don't -- she was angry. I was**  
5 **shocked. I don't recall the exact words.**  
6 Q. You were shocked because you thought the  
7 invocation was perfectly fine?  
8 **A. I was shocked that anybody would come up and**  
9 **act like that on a graduation stage.**  
10 Q. What did you do in response to Mrs. Dobrich's  
11 complaint?  
12 **A. I called her back and talked to her about her**  
13 **complaint, and said, you know, I would take it to the**  
14 **Board at the next meeting, that she was concerned**  
15 **about the graduation prayer and that I would advise**  
16 **the Board to take a look at their policy and to start**  
17 **working on it. And if she wanted to speak to the**  
18 **Board about her concern, that was her right.**  
19 Q. I want to take this step by step. The first  
20 step was Mrs. Dobrich complained to you at the day of  
21 graduation, correct?  
22 **A. Um-hum, um-hum.**  
23 Q. Your response was to tell her, "Please call my  
24 office"?

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1 **A. Um-hum.**  
2 Q. Correct?  
3 **A. (Nodded affirmatively.)**  
4 Q. Yes?  
5 **A. Yes.**  
6 Q. Okay. Did Mrs. Dobrich call your office?  
7 **A. I believe she e-mailed me.**  
8 Q. Okay. Did you frequently communicate with  
9 constituents or residents of the district or parents  
10 via e-mail?  
11 **A. I didn't normally e-mail people back. I**  
12 **normally called them back. That's been my practice.**  
13 **I'm not saying that I haven't done it in 10 years,**  
14 **but --**  
15 Q. Is your e-mail address published somewhere in  
16 the district materials?  
17 **A. Um-hum.**  
18 Q. On the Web site?  
19 **A. Yeah, I believe it is.**  
20 Q. And did, at this time in 2004, did you  
21 customarily check your e-mails?  
22 **A. My secretary checks them, checked them for me.**  
23 Q. And your secretary is who?  
24 **A. Janet Hearn.**

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1 Q. So Ms. Hearn is in charge of bringing to your  
2 attention any e-mail that arrives that seems to be  
3 relevant to your duties?  
4 **A. What she normally did is run them off and I'd**  
5 **have time to read them when I was doing something**  
6 **else, rather than sit there at the screen, which takes**  
7 **hours. So she would just run them off.**  
8 Q. All right. So Mrs. Dobrich sent you an e-mail  
9 and you called her back in response, correct?  
10 **A. Yeah.**  
11 Q. Do you know the date of the e-mail?  
12 **A. I can't recall the date. I don't think I**  
13 **called her back that very day of the e-mail. I think**  
14 **she -- may have called her back in a couple of days.**  
15 **I usually try to get back to people in a couple of the**  
16 **days.**  
17 Q. Did you retain that e-mail?  
18 **A. I think that that might be what this is, I'm**  
19 **not sure.**  
20 Q. That might be what what is?  
21 **A. One of these documents. I'm not sure.**  
22 Q. On the privilege log?  
23 **A. I don't know. I don't know, because I don't**  
24 **know what the documents are.**

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1 Q. Well, let's go back to my question: Did you  
2 retain the e-mail?  
3 **A. I asked Janet to keep the e-mail because I kept**  
4 **my notes on it.**  
5 Q. Okay. So Mrs. Hearn printed a copy of  
6 Ms. Dobrich's e-mail?  
7 **A. Um-hum.**  
8 Q. You asked Mrs. Hearn to keep that printed copy  
9 of the e-mail because you had kept some notes on it,  
10 correct?  
11 **A. Right.**  
12 Q. What were the notes of?  
13 **A. Just little bullets of our conversation.**  
14 Q. Okay, so they were your notes of your  
15 conversation with Mrs. Dobrich?  
16 **A. Right.**  
17 Q. Do you know where Mrs. Hearn would have filed a  
18 document like that, a printout of an e-mail with your  
19 notes on it?  
20 **A. Usually, sometimes I just gave her and she**  
21 **would make a file, you know, just say so and so, put**  
22 **the parent complaint down so we would make sure we**  
23 **followed through on it. So I would imagine it would**  
24 **be in her office.**

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1 Q. Again, Mrs. Hearn would be the one who knows  
2 where it is?  
3 **A. Yeah, and it could be in my box of stuff. I**  
4 **don't know.**  
5 Q. All right.  
6 **A. Or it could be this.**  
7 Q. I'm sorry, your box of stuff in your garage?  
8 **A. Yeah, um-hum.**  
9 Q. Okay. All right. So you made notes of your  
10 conversation with Mrs. Dobrich, you're not sure when  
11 that occurred. But am I correct it occurred within a  
12 few days of graduation?  
13 **A. Yes.**  
14 Q. Okay. What did you do in response to that  
15 conversation with Mrs. Dobrich?  
16 **A. Took her complaint to the following Board**  
17 **meeting.**  
18 Q. Okay. And during the conversation, did you  
19 tell Mrs. Dobrich that you would take the complaint to  
20 the Board meeting?  
21 **A. I did tell her that.**  
22 Q. Did you tell her that you would put her  
23 complaint on the agenda?  
24 **A. I did tell her that, that I would hut**

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1 **graduation exercises, I think I put it on the agenda**  
2 **that way.**  
3 Q. Did you later learn that Mrs. Dobrich had asked  
4 Mr. Walls to put her complaint on the agenda and he  
5 had declined to do so?  
6 **A. I don't recall that.**  
7 Q. Between that conversation on the telephone with  
8 Mrs. Dobrich and the next Board meeting, did you have  
9 any further communications with Mrs. Dobrich?  
10 **A. I don't recall that I did.**  
11 Q. Did you have any further communications with  
12 anybody else on issues relating to religion in the  
13 schools, including School Board prayer?  
14 **A. I don't believe I had any conversation about**  
15 **School Board prayer, because at that time it was**  
16 **graduation exercises. That's the problem.**  
17 Q. You understood my question to be religion in  
18 the schools including, but not limited to, School  
19 Board prayer?  
20 **A. I -- if I asked anybody, it would be**  
21 **Mr. Griffin to look at our policies, that would have**  
22 **been it.**  
23 Q. Okay. This is a document which has been marked  
24 as PX 15. I'm going to try to move quickly through

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1 this. These are the final minutes of June 15th. They  
2 bear your signature and you are reflected as being in  
3 attendance at the meeting, correct?  
4 **A. Um-hum.**  
5 Q. All right. You will see under "Public  
6 Comments" on page 2 that "Mrs. Dobrich, a parent of  
7 the Jewish faith, expressed concern about prayers at  
8 school district events. She asked that the Board  
9 consider using a nondenominational prayer that would  
10 be appropriate for all faiths at events such as  
11 graduations, et cetera."  
12 Is that a fair summary of what you recall  
13 Mrs. Dobrich saying?  
14 **A. I believe at that time she was asking about**  
15 **events in graduations, yes.**  
16 Q. She was asking about events and graduations?  
17 **A. I mean not -- events such as graduation she was**  
18 **saying, yeah.**  
19 Q. All right. What was the response, if any, from  
20 the Board to her comment?  
21 **A. Normally we do not respond to public speakers.**  
22 **I'm not saying that in 10 years that's never happened.**  
23 **But normally we sit and we listen. And I've advised**  
24 **the Board that that should be what they're doing, is**

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1 just listening to the concerns, not having a  
2 conversation with the people across the table.  
3 Q. Did the Board take any action in response to  
4 Mrs. Dobrich's complaint at the June 15th meeting?  
5 **A. I believe they were waiting to talk to**  
6 **Mr. Griffin in person, and because he wasn't there,**  
7 **that they would, they put that off until he could be**  
8 **there to talk to them.**  
9 Q. So am I right, there was no public discussion  
10 by the Board of any, of this issue or any potential  
11 policy at this time?  
12 **A. No, not that I recall.**  
13 Q. Did the Board have a policy on prayer at  
14 graduation at this time, June 15th?  
15 **A. I believe they had some policies on religion,**  
16 **but I don't know specifically if it was graduation.**  
17 **But it could be.**  
18 Q. Before I leave the actual graduation day  
19 itself, do you recall that Mrs. Dobrich told you that  
20 the prayer had ruined Samantha Dobrich's graduation?  
21 **A. She may have said something about that, yeah.**  
22 Q. The amended complaint, which is the complaint  
23 that's currently operative in this case, reflects that  
24 late in the evening of June 3, 2004, which is the date

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1 of the graduation, Mrs. Dobrich followed up her  
2 conversation with you with an e-mail protesting the  
3 invocation of Jesus Christ at the official school  
4 ceremony. Do you have any reason to doubt that that's  
5 the date of Mrs. Dobrich's e-mail?  
6 **A. I have no reason to doubt that.**  
7 Q. All right. It also says that the following  
8 Monday, which I believe is June 5th, although that can  
9 be confirmed with a calendar, Mrs. Dobrich telephoned  
10 your office and left a message regarding the prayer.  
11 Do you recall that Mrs. Dobrich both sent you an  
12 e-mail and telephoned you before you responded?  
13 **A. She may have telephoned as well.**  
14 Q. Did you tell Mrs. Dobrich that you had slipped  
15 the school prayer issue onto the agenda for the June  
16 2004 School Board meeting under the innocuous title  
17 "Graduation Ceremonies"?  
18 **A. I did not tell her -- I told her I put it under**  
19 **"Graduation Exercises." That's what she complained**  
20 **about. And that under that it would be a discussion**  
21 **of the school prayer. Or the prayer at graduation,**  
22 **I'm sorry.**  
23 Q. Do you recall Mr. Evans' response to Mrs.  
24 Dobrich's statements at the June 15th Board meeting?

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1 **A. I believe he said something, because she had**  
2 **said to him that, I remember her saying to him**  
3 **something about, "Your prayer would have been fine if**  
4 **it didn't end 'in Jesus's name.'" And I think he did**  
5 **answer her back. I do not recall her -- the words.**  
6 Q. But you recall that he responded out loud?  
7 **A. I do recall that he did that.**  
8 Q. So that would have been contrary to your  
9 suggestion to the Board that they not respond to  
10 public comments?  
11 **A. I said, sometimes they do and sometimes they**  
12 **don't.**  
13 Q. Do you recall that Mr. Evans said, "No, never,"  
14 when Mrs. Dobrich made that suggestion?  
15 **A. I -- I'm not sure of his words.**  
16 Q. Do you recall that Mr. Evans said in words or  
17 substance, "No, never," in response to Mrs. Dobrich's  
18 suggestion?  
19 **A. I recall that he said something to her,**  
20 **and possible --**  
21 Q. Something to that effect?  
22 **A. -- could be those words, yes.**  
23 Q. The minutes reflect that Bradley Layfield, the  
24 athletic director of Sussex Central, had been invited

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1 to speak about field conditions at the new Sussex  
2 Central High School.  
3 **A. Are we talking about June 15?**  
4 Q. Yes, ma'am?  
5 MR. GOSSELIN: And are we getting back to  
6 board prayer? Because we're kind of drifting into  
7 phase 2.  
8 MR. ALLINGHAM: Well, I take the June 15th  
9 statement by Mrs. Dobrich about events such as  
10 graduation to incorporate board prayer, and in fact at  
11 least by August 23rd, the Board clearly understood  
12 that as well.  
13 MR. GOSSELIN: Okay.  
14 BY MR. ALLINGHAM:  
15 Q. Do you recall Mr. Layfield had been invited to  
16 speak about field conditions at Sussex Central?  
17 **A. I recall that Mr. Layfield was there, according**  
18 **to the minutes of this. I'd have to look.**  
19 Q. If you look at page 7 of the minutes, June 15th  
20 minutes.  
21 **A. Um-hum.**  
22 Q. You'll see that Mr. Layfield in the public  
23 comment section expressed his preference for sod with  
24 an irrigation system, and then mentioned that when he

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1 delivers a prayer and uses the name Jesus Christ, he  
2 intends it to be for all faiths?  
3 **A. He said something relative to -- something like**  
4 **this.**  
5 Q. Did you think it was odd that the athletic  
6 director had --  
7 **A. Yes.**  
8 Q. -- spoken out on the issue of school prayer?  
9 **A. Yes.**  
10 Q. Did anyone speak to Mr. Layfield about making  
11 that statement in his official capacity as athletic  
12 director?  
13 **A. I don't know.**  
14 Q. At the June 15th meeting, Mrs. Dobrich left the  
15 meeting and Dr. Hattier followed her out of the  
16 meeting. Do you recall that?  
17 **A. I do recall him following her out of the**  
18 **meeting one time.**  
19 Q. Do you -- did Dr. Hattier tell you at any point  
20 thereafter what he had said to Mrs. Dobrich and what  
21 Mrs. Dobrich had said to him?  
22 **A. I don't believe that we had a conversation**  
23 **about that.**  
24 Q. How did you find out that Mr. -- Dr. Hattier

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1 had spoken to Mrs. Dobrich when he followed her out?  
2 **A. Well, I figured that's what he was doing. He**  
3 **followed her out of the meeting. I mean... that's**  
4 **it. But I don't recall a conversation about what**  
5 **their conversation was about.**  
6 Q. You never, you never heard that Dr. Hattier had  
7 proposed a compromise to Mrs. Dobrich?  
8 **A. Would you know what the compromise was?**  
9 Q. Yes, a compromise in which the district would  
10 keep "Jesus" out of graduation prayers, but would  
11 allow the use of the word "God"?  
12 **A. He may have said that to her personally. He**  
13 **may have told other Board members. I don't recall him**  
14 **telling the whole Board at one time about the**  
15 **conversation.**  
16 Q. When you say that Dr. Hattier may have told  
17 other Board members that, do you mean he may have told  
18 other Board members about his conversation --  
19 **A. Yeah, he may have.**  
20 Q. -- with Mrs. Dobrich?  
21 **A. He may have.**  
22 Q. But he didn't tell you about his conversation  
23 with Mrs. Dobrich?  
24 **A. Not particularly that I recall.**

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1 Q. Did you ever learn that Dr. Hattier had offered  
2 to provide Mrs. Dobrich with a copy of the school  
3 district lawyer's legal opinion on the issue?  
4 **A. I can't speak for what Dr. Hattier does or**  
5 **doesn't do.**  
6 Q. I understand that, ma'am. My question was  
7 just, did you ever learn that he had made that  
8 statement?  
9 **A. I don't recall that.**  
10 MR. ALLINGHAM: Too many papers.  
11 Q. Do you recall that a parent at the June 15th  
12 Board meeting during the public comment session spoke  
13 up and said that she had previously expressed a  
14 complaint to you about graduation prayer?  
15 MR. GOSSELIN: Objection. We're clearly  
16 drifting into phase 2.  
17 BY MR. ALLINGHAM:  
18 Q. Between the June 15th meeting and the next  
19 Board meeting, which was on June 27th, did you have  
20 any further contact with Mrs. Dobrich?  
21 **A. I can't say for sure. I don't know. I may or**  
22 **I may not have.**  
23 Q. Let me show you what we've marked as PX 16.  
24 This is the July 27 Board meeting minutes. Again, you

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1 are listed as having been present. If you look on the  
2 second page of the minutes, you will see under public  
3 comments that 12 people are reflected as having spoken  
4 about the Indian River School District's practice of  
5 holding prayers at school-sponsored events, including  
6 graduation ceremonies. Do you recall that at this  
7 July 27 meeting a number of persons spoke on that  
8 topic?  
9 **A. Yes.**  
10 Q. Did the Board respond to any of those comments?  
11 **A. I can't promise you that the Board didn't**  
12 **respond, but our practice is not to respond. Often**  
13 **they do what they want to do. I don't recall, I don't**  
14 **recall it, though.**  
15 Q. Excuse me. Do you know how it came to the  
16 public's attention that the issue of graduation  
17 ceremonies and prayer at school-sponsored events would  
18 be the topic of discussion by the Board at this  
19 meeting?  
20 **A. The agenda is public.**  
21 Q. But the agenda item is simply graduation  
22 ceremonies, correct?  
23 **A. But the agenda is public, and there's a large**  
24 **community of folks here who may be in tune to anything**

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1 **that is talked about at the Board. They usually only**  
2 **show up when there's something they're concerned**  
3 **about. They don't usually show up when they're happy**  
4 **about things.**  
5 Q. Yes. The agenda item simply says "Graduation  
6 Ceremonies," correct?  
7 **A. Yeah, um-hum.**  
8 Q. But the public comment description in the  
9 minutes makes clear that these people were speaking  
10 not merely about graduation ceremonies, but about  
11 prayers at school-sponsored events, including  
12 graduation ceremonies.  
13 **A. Yeah.**  
14 Q. Do you know how that topic came up?  
15 **A. No.**  
16 Q. Do you know whether any effort was made by any  
17 Board members to publicize the fact that the Board was  
18 beginning to consider the issue of prayer at  
19 school-sponsored events?  
20 **A. I don't know that for a fact.**  
21 Q. Okay. When you say you don't know that for a  
22 fact, have you heard that any Board members were  
23 trying to drum up interest in the community on that  
24 topic?

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1 **A. I don't know that.**  
2 MR. ALLINGHAM: Off the record.  
3 THE VIDEOGRAPHER: Going off the record at  
4 approximately 1:15 p.m.  
5 MR. ALLINGHAM: We have 10 minutes left on  
6 the tape. This is a good place for me to stop. Why  
7 don't you do what you have to do and when you're done,  
8 you can come back.  
9 (A luncheon recess was taken.)  
10 THE VIDEOGRAPHER: Back on the record at  
11 approximately 3:12 p.m.  
12 BY MR. ALLINGHAM:  
13 Q. Before the lunch break, we had discussed to  
14 some degree the August 24th Board meeting. That's the  
15 big meeting.  
16 **A. The big meeting, yes.**  
17 Q. We talked about your having arranged for the  
18 preparations to be made for the big crowd, the  
19 overflow, the policemen to manage the flow of traffic  
20 outside.  
21 **A. Yes.**  
22 Q. Speakers in the parking lot?  
23 **A. Speakers? I don't know about speakers. I just**  
24 **had people try to arrange the parking. I didn't**

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1 **arrange for any speakers.**  
2 Q. You were in the cafeteria for that meeting; is  
3 that correct?  
4 **A. Yes.**  
5 Q. Did you find the tone of that meeting  
6 disturbing or troubling in any way?  
7 **A. I thought many people were emotional about what**  
8 **they had to say.**  
9 Q. Did you think that the tone of their comments  
10 were appropriate?  
11 **A. There were so many comments, I don't -- I would**  
12 **say that they were tied up in what they believed. I**  
13 **don't think it's appropriate for everybody.**  
14 Q. Do you recall any comments that you viewed as  
15 threatening to the Dobrich family?  
16 **A. I don't recall threatening comments.**  
17 Q. Other witnesses have described the crowd at  
18 that meeting as unruly. Would you agree with that?  
19 **A. I wouldn't -- I guess their definition of**  
20 **unruly and mine are not the same. I thought that**  
21 **everybody was seated, there were emotions, but didn't**  
22 **seem to me that I would call that unruly.**  
23 Q. Do you recall members of the crowd booing when  
24 Mrs. Dobrich spoke?

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1 **A. I believe there was some booing.**  
2 Q. Do you recall members of the crowd booing when  
3 Mrs. Dobrich's son tried to speak?  
4 **A. I'm not sure. I mean there, there possibly**  
5 **could be.**  
6 Q. Do you recall a member of the crowd yelling,  
7 "Take your yarmulke off," to Alex Dobrich before he  
8 spoke?  
9 **A. I don't recall that.**  
10 Q. Do you recall that because of the crowd's  
11 reaction, Alex Dobrich was unable to speak when he got  
12 to the podium?  
13 **A. I thought he did at least begin to speak. I**  
14 **don't --**  
15 Q. Let me see if I can refresh your recollection.  
16 Do you recall that his sister, when he was unable to  
17 speak, came to the podium and read the statement that  
18 he had written?  
19 **A. No, I don't recall it.**  
20 Q. Do you recall a public comment in which the  
21 speaker -- do you know a Harold Johnson?  
22 **A. I don't know Howard Johnson.**  
23 Q. Do you recall a speaker referring to Madalyn  
24 Murray O'Hair during the public comment session?

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1 **A. I think I may have heard that. My reaction**  
2 **was, you know, she was -- that was a different**  
3 **prayer -- that was an issue of prayer in school. I**  
4 **don't -- I heard her name mentioned.**  
5 Q. Did you hear the comment that the Lord had  
6 proved that He was the highest power because Madalyn  
7 Murray O'Hair had disappeared never to be seen again?  
8 **A. I may have heard that, but I don't -- I**  
9 **wouldn't have appreciated that.**  
10 Q. You don't think that kind of comment is  
11 appropriate in a meeting on School Board prayer, do  
12 you?  
13 **A. No.**  
14 Q. Miss Hobbs, did you ever, after any of the  
15 Board meetings at which Miss Dobrich -- Mrs. Dobrich  
16 spoke, approach Mrs. Dobrich after the meeting and  
17 tell her that she was acting in an ungrateful way?  
18 **A. I, on the 24th, I don't think it was**  
19 **afterwards, but it was an intermittent, you know, a**  
20 **break or something. I had said, I don't know that I**  
21 **said inappropriate, but I had said, you know, you had**  
22 **made a complaint -- what I felt was she wasn't**  
23 **completely telling the truth in her speech. She was**  
24 **acting like we hadn't done anything about her concern.**

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1 **And I did say something to the effect**  
2 **that, "You know, Mrs. Dobrich, that's not completely**  
3 **true. We did start working on your concern as soon as**  
4 **you brought it to me." And I guess my interpretation**  
5 **of what she said sounded like that we weren't taking**  
6 **her concern seriously at all. And I did -- I didn't**  
7 **appreciate the fact that she thought we weren't doing**  
8 **anything about her concern, because her concern was**  
9 **the graduation prayer when she talked to me.**  
10 Q. Did you, did you tell Mrs. Dobrich that you  
11 thought she was ungrateful?  
12 **A. If I said those words, I don't recall exactly**  
13 **what words I used that evening.**  
14 Q. When you, when you watched Mrs. Dobrich and her  
15 daughter speak and then watched the parade of 40-odd  
16 people go to the podium, did you feel any sympathy for  
17 Mrs. Dobrich's position? Or did you just think she  
18 was ungrateful?  
19 **A. No, I felt sympathy for her position.**  
20 Q. Did you think that some of the comments  
21 represented attacks on Mrs. Dobrich?  
22 **A. I, I would have felt that way had I been**  
23 **Mrs. Dobrich. In fact, I also spoke to her daughter**  
24 **that day and asked her how she was doing in school in**

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1 **her college career, and her daughter said fine. So I**  
2 **didn't --**  
3 Q. On August 24th?  
4 **A. Um-hum.**  
5 Q. In the process of developing the pleadings in a  
6 case, a complaint is filed by the plaintiff that lays  
7 out the plaintiffs' claims and an answer is filed by  
8 the defendants that responds paragraph by paragraph to  
9 the paragraphs in the complaint. Do you generally  
10 recall that process?  
11 **A. I believe that's what I referred to as the book**  
12 **that we tried to put together for that complaint.**  
13 Q. The big book, yes.  
14 In paragraph 113 of the amended complaint,  
15 which is the operative complaint now, the plaintiffs  
16 plead, quote -- and this has to do with the August  
17 24th meeting -- "During a break, Defendant Hobbs  
18 confronted Mona Dobrich about her statement and  
19 accused Mona of being ungrateful." And the answer to  
20 that allegation is, "Defendants are without knowledge  
21 or information sufficient to form a belief as to the  
22 truth of the averments set forth in this paragraph."  
23 Am I right in understanding from your  
24 testimony today that you do have knowledge or

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1 information about your actions at August 24th, and  
2 your recollection is that during a break you spoke to  
3 Mrs. Dobrich about her statement and may have called  
4 her ungrateful?  
5 **A. I don't recall calling her ungrateful. But I**  
6 **was -- my thing was I didn't think she was truthful.**  
7 **Whether I said ungrateful or not truthful, because we**  
8 **started to work on her complaint as soon as she**  
9 **complained to me. So...**  
10 Q. I'm going to show you paragraph 4, 104 of the  
11 amended complaint, which reproduces verbatim what  
12 Mrs. Dobrich said during the meeting. And I'm going  
13 to ask you to identify for me whatever portions of it  
14 you think are inaccurate or unfair. All right?  
15 **A. I would imagine that it would be the first part**  
16 **when she approached the superintendent of School Board**  
17 **and shared her displeasure at Sussex Central High**  
18 **School, and I had been accused of being an outside**  
19 **troublemaker and instigator, none of which is true.**  
20 **I think it's down here further, that if**  
21 **the Board had acted in a responsible manner, I took**  
22 **that as we had acted in a responsible manner. We had**  
23 **started to work on her complaint as soon as she said**  
24 **it. And they -- and instead of letting this ignite**

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1 the community. As soon as she brought her complaint,  
2 I took it to the Board, it was on the agenda. Ask --  
3 Mr. Griffin of course was not there at that meeting.  
4 But it wasn't like we just shoved her complaint under  
5 a rug, and that is what I felt wasn't true in her  
6 testimony.  
7 Q. And how would Mrs. Dobrich have learned that  
8 the Board had been acting on her complaint?  
9 A. Well, she was there, she also waited till one  
10 executive session, and I don't remember the date. And  
11 I said that it was getting really late with an  
12 executive session, and I believe I even offered to  
13 call her and let her know if the Board took any action  
14 that night, being it was too late to stay, you know,  
15 when they came out of the general meeting. And I  
16 believe I called her to say what had happened at that  
17 meeting, either they didn't because Mr. Griffin was  
18 ill, I'm not sure what meeting. But I made that offer  
19 to her.  
20 Q. Well, I showed you the minutes of the June 15th  
21 meeting, and rather than take action, the Board tabled  
22 the matter for discussion at the next meeting. I  
23 showed you the July 27th minutes, and if you'll  
24 recall, the Board took no action publicly during the

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1 July 27th meeting either. I showed you that there was  
2 an August 23rd meeting the day before the big meeting  
3 at which Mrs. Dobrich was speaking. And the Board  
4 went into executive session immediately and adjourned  
5 immediately after coming out of executive session with  
6 no public action being taken.  
7 So explain to me how Mrs. Dobrich would  
8 have understood that the Board was acting on her  
9 complaint.  
10 A. It was my opinion. This is how I felt about  
11 this statement.  
12 Q. Well, if you could, if you could articulate for  
13 me the objective basis for your belief that  
14 Mrs. Dobrich --  
15 A. Well, I believe the one time I offered to call  
16 her and talk to her.  
17 Q. I have to finish my question, ma'am. I have to  
18 finish my question.  
19 Explain to me the objective basis for your  
20 belief that Mrs. Dobrich should have understood that  
21 the Board was acting on her complaint.  
22 A. I think the conversation I had had with her  
23 that I would take it to the Board; conversation at  
24 another time that I had had with her that I would call

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1 her after executive session and explain what happened,  
2 if they took an action or not. So the fact that it  
3 was on the agenda of meetings.  
4 Q. By August 24th it had been two and a half  
5 months since her complaint was made. Is that right?  
6 A. Well, it takes a while to change a policy or  
7 create a policy. We -- I would say two and a half  
8 months is fairly normal, or even longer for a policy  
9 if the second reading isn't accepted and they change  
10 and talk about it.  
11 Q. At the August 24th meeting do you recall that  
12 there were boos and catcalls when a representative of  
13 the ACLU spoke?  
14 A. There were boos at times. I'm not sure if it  
15 was a particular representative that spoke or not, but  
16 there were boos at times.  
17 Q. Miss Hobbs, would you agree with me that the  
18 boos were directed to people who advocated changing  
19 the Board's practice, and there were no boos directed  
20 to persons who spoke in favor of School Board prayer  
21 or, more generally, school prayer?  
22 A. Well, I believe that that would be accurate.  
23 Q. The atmosphere of the cafeteria was hostile to  
24 Mrs. Dobrich and the persons who supported her

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1 position; isn't that right?  
2 A. I believe that the atmosphere of the cafeteria,  
3 many of them didn't understand what they were saying.  
4 They were talking about school prayer. They weren't  
5 even talking about the issue. And they were hostile,  
6 yes.  
7 Q. Do you recall that there were state  
8 representatives at the August 24th meeting who spoke?  
9 A. Yes, there were some state representatives.  
10 Q. Did you know in advance of the meeting that  
11 those state representatives would be speaking?  
12 A. I'm not sure they told us in advance that they  
13 would be speaking. Sometimes they come just to show  
14 up to support an issue and don't say anything.  
15 Q. Did you think it was odd that elected officials  
16 would come and speak in support of School Board  
17 prayer?  
18 A. These elected officials are very involved in  
19 their community, and if they believe that the Board is  
20 a legislative body, I would imagine they felt they had  
21 a right to say something, as they're legislators in,  
22 and the community's feelings at the time.  
23 Q. Do you recall that the state representatives  
24 had a letter that they read into the record?

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1 **A. I do recall they had a letter.**  
2 Q. Did you notice that in that letter they seemed  
3 to have advance notice of the prayer that would be  
4 offered at that meeting?  
5 **A. I don't recall that.**  
6 Q. I'm going to show you a document which has not  
7 been marked for identification. It bears Bates Nos. P  
8 1614, P 1615. It is -- it bears the name of a member  
9 of the Doe family. And I have masked that name out  
10 consistently when I've asked deponents about this  
11 document.  
12 **A. Okay.**  
13 MR. GOSSELIN: Do you have an extra copy  
14 of that?  
15 MR. ALLINGHAM: Yes. I have an extra --  
16 I'm not marking it. I have an extra copy which I can  
17 give you if you'll give it back to me.  
18 MR. GOSSELIN: Yeah.  
19 BY MR. ALLINGHAM:  
20 Q. Take as much time as you need, Miss Hobbs, to  
21 read the document. My first question to you, I can  
22 tell you, is going to be whether you've seen it before  
23 or not.  
24 Have you finished reading it?

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1 **A. Yes, um-hum.**  
2 Q. Have you seen that document before?  
3 **A. I may have seen it. I really am not sure.**  
4 Q. You're not sure?  
5 **A. No.**  
6 Q. Do you recall having received --  
7 **A. A copy of this?**  
8 Q. -- a complaint about the religious climate at  
9 Selbyville Middle School and the School Board's  
10 current position on matters of religion?  
11 **A. I believe I, we received a complaint about the**  
12 **Bible Club at Selbyville Middle School. And I'm not**  
13 **sure whether it was tied up in the case or if it was**  
14 **before the case, but...**  
15 Q. Do you recall from whom you received that  
16 complaint?  
17 **A. I believe it was really from the case when the**  
18 **Does started in the case, Selbyville was their thing.**  
19 Q. Dr. Hattier testified that you brought this  
20 letter to his attention.  
21 **A. I may have. If he said so.**  
22 Q. Would you agree with me that the complaints  
23 expressed in this letter are heartfelt?  
24 **A. Yes.**

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1 Q. And these are matters that as superintendent  
2 you would take seriously. Am I right about that?  
3 **A. I wouldn't want anyone to be discriminated**  
4 **against. I would take them seriously.**  
5 Q. Would you tell me, other than bringing it to  
6 the attention of Dr. Hattier, what you did in response  
7 to this complaint?  
8 **A. Well, we found -- if we found out that there**  
9 **was a Bible Club and it was led by a teacher, it**  
10 **wasn't to be led by a teacher, if a student wanted to**  
11 **lead the Bible Club. But there was some**  
12 **misconception, I believe, that children were let out**  
13 **early just for Bible Club to get in the lunch line**  
14 **first. That's a complaint I had heard. And all of**  
15 **the clubs were let out in Selbyville if they had a**  
16 **club to go to at lunchtime. So whether it was Bible**  
17 **Club or Soccer Club or whatever club it was. So that**  
18 **was one of the things.**  
19 Q. It sounds to me, Miss Hobbs, as though, and I'm  
20 reading between the lines here, that you did  
21 investigate the complaints in this letter, or caused  
22 to be investigated the complaints in this letter.  
23 **A. Whether they were in this letter or not, when I**  
24 **heard about the Bible Club, I looked into what the**

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1 **Bible Club was doing.**  
2 Q. And what did you find out?  
3 MR. GOSSELIN: Objection. Is this, does  
4 this make its way back around to Board prayer?  
5 MR. ALLINGHAM: Yes. And if you'd like to  
6 go off the record and walk out in the hall with me,  
7 I'll explain my reasons for asking these questions.  
8 But I would also note that Dr. Hattier answered these  
9 questions without objection, and that I think that I'm  
10 entitled to test the answers that were given by one  
11 witness with questions to another witness.  
12 But in addition to that, which I think is  
13 a good reason for asking them, I think that they do  
14 link back to School Board prayer as well.  
15 MR. GOSSELIN: We don't need to go back  
16 out in the hall. If you're bringing it back around to  
17 Board prayer, that's fine with me.  
18 BY MR. ALLINGHAM:  
19 Q. What did you do in response to the complaints  
20 in this letter?  
21 **A. The teachers were told that they were not to be**  
22 **leaders of a Bible Club, that they could be there as**  
23 **chaperones so people, you know, children wouldn't hurt**  
24 **themselves or whatever else might happen. But they**

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1 **shouldn't lead the Bible Club. And right after that,**  
2 **we had no teacher leaders of the Bible Club at**  
3 **Selbyville. So I don't know at what time frame that**  
4 **happened. But --**  
5 Q. Did you receive more than one complaint about  
6 Bible clubs?  
7 **A. Not that I recall. I didn't receive -- it**  
8 **either came up with the case or this letter was part**  
9 **of it. But...**  
10 Q. Well, this is clearly, this letter is clearly a  
11 complaint, among other things, about Bible clubs,  
12 correct?  
13 **A. Right, right.**  
14 Q. And you only recall one complaint about Bible  
15 clubs?  
16 **A. Right, at Selbyville.**  
17 Q. I'm going to ask you to assume that that  
18 complaint came in around the 1st of October 2004,  
19 which is the date of this letter. And I gathered from  
20 your previous answer that you did cause to be  
21 investigated some or all of the complaints in this  
22 letter. Did you do that investigation or did you ask  
23 someone else to do it?  
24 **A. I asked the principal of the school to look**

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1 **into this.**  
2 Q. And the principal of the school in this case is  
3 Mr. Kline?  
4 **A. Yes.**  
5 Q. I asked you earlier questions about the general  
6 approach to complaints from district residents or  
7 parents. Did you follow that approach in this case?  
8 **A. Usually I -- either the principal of the school**  
9 **investigates it or someone from my office investigates**  
10 **it.**  
11 Q. And I presume that if you asked someone else to  
12 do it, you asked for them to report back to you?  
13 **A. To share their findings.**  
14 Q. Okay. And tell me, I gather that Mr. Kline  
15 reported to you that there was a Bible club being led  
16 by a teacher, correct?  
17 **A. That there were Bible clubs, I believe three of**  
18 **them.**  
19 Q. Three Bible clubs being led by teachers?  
20 **A. Two teachers and a secretary, as I recall.**  
21 Q. Okay. All at the Selbyville Middle School?  
22 **A. Yes.**  
23 Q. Okay. Did Mr. -- did you ask Mr. Kline also to  
24 investigate the allegation that a counselor at the

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1 school pressured a child to attend the Bible Club?  
2 **A. I can't say that I did, because I am not sure**  
3 **that I had a copy of this letter. I don't recall it.**  
4 Q. Do you know who the Doe family is?  
5 **A. I believe I do.**  
6 Q. Do you recall getting a complaint from the Doe  
7 family on the matters set forth in this letter?  
8 **A. No, I don't.**  
9 Q. Do you have an affirmative memory that there  
10 was no inquiry made into Ms. Redard's, the allegation  
11 that Ms. Redard put pressure on a child to attend the  
12 Bible Club?  
13 **A. I don't recall that at all.**  
14 Q. Do you recall affirmatively that you never saw  
15 this letter?  
16 **A. I'm sorry, I can't say either way at this**  
17 **point.**  
18 Q. When a complaint comes in from a parent, do you  
19 open a file on that complaint?  
20 **A. Sometimes. Most of the time, yes, we do. And**  
21 **it seems like I would have had a file on this one.**  
22 **It's a pretty serious letter.**  
23 Q. Did you search your files in your garage to see  
24 whether you have a copy of this letter?

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1 **A. No, I didn't.**  
2 Q. The privilege log shows that from time to time  
3 you receive e-mail communications, or you received  
4 e-mail communications in your capacity as  
5 superintendent. Do you continue to maintain an e-mail  
6 account that you had when you were superintendent?  
7 **A. No.**  
8 Q. The e-mails that you received, were they  
9 received on a computer in your office?  
10 **A. Yes, and also connected to my secretary's**  
11 **office.**  
12 Q. And did you ask someone to search that computer  
13 to see whether there were e-mails that were responsive  
14 to the document requests in this case?  
15 **A. This? This document?**  
16 Q. No. The general request for documents that our  
17 side asked your side for.  
18 **A. Yes, I think we tried to look back to see if we**  
19 **had any information and give whatever we had.**  
20 Q. On the computers?  
21 **A. Yeah.**  
22 Q. Is it Mrs. Hearn who maintains the files on  
23 complaints of the kind that we have before us?  
24 **A. Yes.**

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1 Q. Okay. Do you know where she keeps those files?  
2 **A. In her office.**  
3 Q. And that's here in the building we're sitting  
4 in today?  
5 **A. Yes.**  
6 Q. In the ordinary course, would you ask Mr. --  
7 would you ask the principal involved in the  
8 investigation to provide you with a written summary of  
9 his findings?  
10 **A. Not necessarily.**  
11 Q. Sometimes oral?  
12 **A. Oral that he's looked into it and things have**  
13 **changed.**  
14 Q. Is it sometimes oral and sometimes written?  
15 **A. Most of the times it's oral. I mean we don't**  
16 **have a lot of formal complaints in this district,**  
17 **amazingly enough. My being 10 years of**  
18 **superintendent, I haven't had a great many formal**  
19 **complaints.**  
20 Q. What do you attribute that to?  
21 **A. Well, usually people complain when they're not**  
22 **happy about something. Sometimes people just aren't**  
23 **the type to complain or would rather be quiet than say**  
24 **anything.**

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1 Q. Was it your practice if you received a written  
2 complaint to make it available to the members of the  
3 Board?  
4 **A. Yes, the times -- this isn't addressed to me,**  
5 **so I don't know who this was addressed to. If it was**  
6 **addressed to a Board member, to me or the Board in**  
7 **general, and has no heading.**  
8 Q. I'll represent to you that it was delivered to  
9 you.  
10 **A. Okay.**  
11 Q. Dr. Hattier testified that the substance of the  
12 complaints in this letter were reported on to the  
13 Board by you.  
14 **A. I may have talked about the Bible Club.**  
15 Q. Do you recall telling the Board that you had  
16 discovered that the Bible clubs complained of in here  
17 existed and that the matter had been corrected?  
18 **A. I did find out they existed and said that we**  
19 **were working on correcting them, because they**  
20 **shouldn't be happening in the manner that they were**  
21 **happening. Not that they would be ended completely if**  
22 **children wanted to run the Bible Club, they would**  
23 **still have a Bible Club and I think they did that for**  
24 **a while. But then I think they dropped them**

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1 **altogether.**  
2 Q. Without the teacher leadership?  
3 **A. Yeah. Because some of the children, I believe,**  
4 **asked if they could still meet together.**  
5 Q. There are teachers and counselors identified by  
6 name in this complaint letter.  
7 **A. Um-hum.**  
8 Q. Is it your practice where personnel of the  
9 district are identified by name in a complaint letter  
10 to specifically identify the allegations against those  
11 individuals?  
12 **A. Most likely I would ask the principal to look**  
13 **into it to see if he felt there were substance to the**  
14 **allegations in any kind of letter like this.**  
15 Q. And do you recall whether Mr. Kline reported to  
16 you on whether --  
17 **A. I don't believe that I had a discussion with**  
18 **Mr. Kline about the counselor in this case.**  
19 Q. Those are very serious allegations, wouldn't  
20 you agree with me, against the counselor?  
21 **A. Well, I would think they are, according to this**  
22 **letter.**  
23 Q. As superintendent, wouldn't you want to know  
24 whether those allegations are true?

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1 **A. I don't recall this letter.**  
2 Q. I'm asking -- I've represented to you that you  
3 got this letter, Dr. Hattier's testified that you  
4 reported on the complaints in this letter. My  
5 question to you is, I want you to assume that you got  
6 this letter. If you read the allegations against this  
7 counselor, you would take them very, very seriously,  
8 wouldn't you?  
9 **A. I would take them seriously.**  
10 Q. They're serious allegations. Correct?  
11 **A. Yes.**  
12 Q. You would want to know whether they're true?  
13 **A. I would want to know if they're true, but I**  
14 **don't recall these particular allegations against this**  
15 **counselor.**  
16 Q. You, I think, told me, correct me if I'm wrong,  
17 that in the normal course of investigating a  
18 complaint, you would report back to the person who  
19 made the complaint as to whatever resolution was made  
20 of the complaint.  
21 **A. See, that's why I don't recall having a**  
22 **conversation with this parent about this complaint. I**  
23 **believe when I first heard about the complaint was in**  
24 **the general complaint by the Does. That is what I'm**

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1 **saying. The parent didn't come in and sit down and**  
2 **meet with me.**  
3 Q. Am I correct that whatever your general  
4 practice is, you do not recall responding to the  
5 Does --  
6 **A. No, I don't.**  
7 Q. -- to this complaint?  
8 **A. No, I don't.**  
9 Q. Or any aspect of it?  
10 **A. No. I think it's through the complaint of the**  
11 **case.**  
12 Q. Would you agree with me, Miss Hobbs, that if  
13 the allegations against the counselor are true, that  
14 the counselor should have been reprimanded?  
15 MR. GOSSELIN: Objection. Is this coming  
16 back to Board prayer? Because so far it hasn't.  
17 MR. ALLINGHAM: Are you instructing the  
18 witness not to answer?  
19 MR. GOSSELIN: Yes, you don't have to  
20 answer that.  
21 BY MR. ALLINGHAM:  
22 Q. Miss Hobbs, you served as an administrator, I  
23 gather, for more than 10 years, maybe more than 15  
24 years. Is that correct?

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1 **A. Yes.**  
2 Q. From time to time in that capacity, did you  
3 encounter discrimination in your districts?  
4 **A. Yes, I would say there were people who accused**  
5 **people of discrimination in that, in that time frame**  
6 **of 40 years.**  
7 Q. Would you agree with me that discrimination is  
8 not always obvious?  
9 **A. Yes.**  
10 Q. I'm going to ask you a global question, which I  
11 think will take care of whatever other specific  
12 questions I have.  
13 Is it correct, Miss Hobbs, that you do not  
14 recall having received this letter?  
15 **A. Yes.**  
16 Q. And is it therefore correct that though you  
17 recognize the complaints in this letter, you did not  
18 respond to the family that complained because you  
19 recall that those complaints were received in the  
20 context of this litigation?  
21 **A. Yes.**  
22 MR. ALLINGHAM: Can I get the copies back,  
23 please? Thank you.  
24 Q. I'm going to give you a copy of the amended

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1 complaint, which is the operative complaint, and a  
2 copy of your answer to that complaint.  
3 **A. What did you want me to do?**  
4 Q. I want to hear what Mr. Gosselin has to say  
5 first.  
6 MR. GOSSELIN: I believe she may have been  
7 gone after the amended complaint and answer was filed.  
8 I don't know if that --  
9 MR. ALLINGHAM: That may shorten the  
10 process.  
11 MR. GOSSELIN: Okay. I mean if you're  
12 trying to get specific factual information, I mean you  
13 might want to reference your original complaint.  
14 THE WITNESS: Are there dates on it?  
15 MR. GOSSELIN: It was in July I think that  
16 this was filed.  
17 BY MR. ALLINGHAM:  
18 Q. When did you leave your position as  
19 superintendent?  
20 **A. June 30th.**  
21 Q. Well, it may be that you can't answer my  
22 question, but let me pose it at any rate. If you'll  
23 look at page 28 --  
24 **A. Which one?**

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1 Q. Of the amended complaint. In paragraph 128,  
2 the complaint alleges, "When Jane Doe complained by  
3 letter to the district and the Delaware Department of  
4 Education, Defendant Hobbs called and promised an  
5 investigation." Do you recall a telephone  
6 conversation with Mrs. Doe in which you promised an  
7 investigation of a complaint made by letter by  
8 Mrs. Doe to the district?  
9 **A. I don't recall it, but my normal practice would**  
10 **be to have called her back, which is something that**  
11 **I'm --**  
12 Q. If you look at the answer to the amended  
13 complaint, the same paragraph, 128, you will see that  
14 the answer is, "Defendants are without knowledge or  
15 information sufficient to respond to the averments in  
16 paragraph 128."  
17 **A. Right.**  
18 Q. Is there anybody who would be more  
19 knowledgeable about whether you called and promised an  
20 investigation --  
21 **A. No.**  
22 Q. -- than you?  
23 **A. No. There wouldn't be.**  
24 Q. Am I right in thinking that the meaning of

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1 these words, "Defendants are without knowledge or  
2 information sufficient to respond to the averments in  
3 paragraph 128," at least from your perspective, is you  
4 don't recall one way or another whether you did this?

5 **A. I don't recall.**

6 Q. If Mrs. Doe were to testify that these events  
7 occurred, you would have no way of disputing her  
8 recollection, would you?

9 **A. No.**

10 Q. Paragraph 129 pleads, "Jane Doe immediately  
11 called back to follow up, but she had to leave a  
12 message with a secretary. Hobbs never returned the  
13 call."

14 Do you recall getting a message from  
15 Mrs. Hearn that Mrs. Doe had called you and had  
16 additional information to share with you concerning  
17 the substance of her complaint?

18 **A. I don't recall.**

19 Q. And if Mrs. Doe were to testify as to the facts  
20 in paragraph 129, you would have no way to dispute  
21 those facts?

22 **A. No.**

23 Q. I'm going to show you what we've previously  
24 marked as PX 3.

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1 **advice that was involved in the case. So we were not**  
2 **to destroy any documents or anything that we had.**

3 Q. Let me show you what we've previously marked as  
4 Exhibit 58. I can tell you that I addressed my March  
5 10, 2005 letter, Exhibit 3 that you just looked at, to  
6 Mr. Kellum because of this January 7 letter in which  
7 he informed me, "Please know that this office has been  
8 retained by the Board of Education for Indian River  
9 School District regarding any possible challenge to  
10 policies on school prayer at commencements graduation  
11 and baccalaureate ceremonies, Board prayer at regular  
12 Board meetings and religion." Did the Indian River  
13 School District ever retain the Alliance Defense Fund  
14 or Mr. Kellum regarding any possible challenges as set  
15 forth there?

16 **A. I don't know that the Alliance Defense Fund is**  
17 **representing us, or giving us any money towards this**  
18 **case.**

19 Q. Well, who would know, if not the superintendent  
20 of the district?

21 **A. I mean we have hired our own attorneys now. So**  
22 **I don't think --**

23 Q. Who would know better than the superintendent  
24 of the district --

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1 MR. GOSSELIN: Do you want these back,  
2 Tom?

3 MR. ALLINGHAM: Thank you.

4 While Miss Hobbs is looking at that  
5 document, do we have the response of Nathan Kellum to  
6 my letter of January 5?

7 BY MR. ALLINGHAM:

8 Q. Take as much time again as you want, Miss  
9 Hobbs, but my first question is have you seen the  
10 letter which we've previously marked as Exhibit 3?

11 **A. There's a copy of the letter to me. So...**

12 Q. Well, you don't have to believe everything you  
13 see in writing, Miss Hobbs.

14 **A. I know.**

15 Q. Do you recall having seen a document addressing  
16 the subject matter of this exhibit?

17 **A. No, I feel really bad, but I -- lots of things**  
18 **come across my desk. So I would say that I saw this**  
19 **letter.**

20 Q. What did you do to -- what actions did you take  
21 to respond to the request in this letter that evidence  
22 related to the district's prayer policies must be  
23 preserved?

24 **A. By that time we would have taken any lawyer**

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1 **A. I don't know.**

2 Q. You have to let me finish the question, Miss  
3 Hobbs. Who would know better than the superintendent  
4 of the district whether a legal organization or a law  
5 firm such as the Alliance Defense Fund had been  
6 retained by the Board regarding any possible challenge  
7 to Board policies?

8 **A. I don't recall any Board vote on retaining this**  
9 **law firm.**

10 Q. And I take it you don't recall having retained  
11 this law firm at the direction of the Board?

12 **A. No.**

13 Q. So at least based on your recollection, the  
14 statement, "This office has been retained by the Board  
15 of Education for Indian River School District" is  
16 incorrect?

17 **A. I would believe so, because we went back and**  
18 **forth with the insurance lawyer and -- I don't know.**  
19 **I really don't know. I'd be dishonest to make up**  
20 **something.**

21 Q. Is there anyone connected with the district who  
22 would know better than you whether the Alliance  
23 Defense Fund had been retained?

24 **A. This was December 2004.**

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1 Q. The question was, is there anyone connected  
2 with the district who would know better than you  
3 whether the Alliance Defense Fund had been retained?  
4 **A. I would say the president of the Board.**  
5 Q. That, at the time, would have been Mr. Walls?  
6 **A. In '04, I believe it's Mr. Walls.**  
7 Q. I asked you about my letter of March 2005  
8 requesting that the Board preserve all evidence  
9 relating to the prayer policies, and I think you told  
10 me that by that point, you had been told by your own  
11 lawyers to preserve all evidence. Is that correct?  
12 **A. Right.**  
13 MR. ALLINGHAM: We've got a couple of  
14 minutes left. Let's change the tape.  
15 THE VIDEOGRAPHER: Going off the record at  
16 approximately 4:05 p.m.  
17 (A brief recess was taken.)  
18 THE VIDEOGRAPHER: Back on the record at  
19 approximately 4:14 p.m.  
20 BY MR. ALLINGHAM:  
21 Q. You testified this morning that you left as  
22 your job as superintendent because you were retiring.  
23 Is that right?  
24 **A. Right.**

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1 Q. Did you -- is there a mandatory retirement age?  
2 **A. No.**  
3 Q. So you had an option to stay if you wanted to?  
4 **A. I've been working in education for 40 years. I**  
5 **thought it was about time, do something for myself.**  
6 Q. That was my question.  
7 **A. Yes.**  
8 Q. You wanted to move on to something different,  
9 correct?  
10 **A. Right. Mainly nothing.**  
11 Q. Mainly nothing. So your job as a consultant is  
12 not a full-time job?  
13 **A. No.**  
14 Q. In your job as a consultant, have you had among  
15 your clients the Indian River School District?  
16 **A. No.**  
17 Q. Since you left your job as superintendent, have  
18 you received any compensation from the Indian River  
19 School District?  
20 **A. No.**  
21 Q. When you left the job, did you sign a  
22 confidentiality agreement with the Indian River School  
23 District?  
24 **A. I don't remember signing a confidentiality**

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1 **agreement.**  
2 Q. How about a nondisparagement agreement?  
3 **A. No, I don't believe I signed anything like**  
4 **that.**  
5 Q. Did you have anything to do with -- strike  
6 that, let me ask a better question.  
7 Did you talk to Mrs. Bunting, that is  
8 Susan Bunting, about her becoming superintendent  
9 following your tenure?  
10 **A. We had talks about things, different things**  
11 **that were going on in the district, you know, we have**  
12 **a big renovation project, instruction. She was my**  
13 **director of instruction, so we talked often while I**  
14 **was here.**  
15 Q. Did you talk to her about the possibility that  
16 she could succeed you before you actually retired?  
17 **A. No.**  
18 Q. So the only conversations you had with  
19 Mrs. Bunting about her performance of her duties as  
20 superintendent came after you had made the decision to  
21 retire?  
22 **A. I made the decision to retire like a year and a**  
23 **half, I gave the Board a year and a half notice just**  
24 **so they could search for a superintendent.**

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1 Q. Were you involved at all in the search for a  
2 possible replacement?  
3 **A. I was on the one committee meeting about, you**  
4 **know, what the community was looking for in a**  
5 **superintendent, and then after that, I did not**  
6 **participate in a search.**  
7 Q. Am I correct that you didn't ask Mrs. Bunting  
8 about her positions on issues that face a  
9 superintendent?  
10 **A. No, I didn't ask her.**  
11 Q. What, in your understanding, was the community  
12 looking for in a superintendent?  
13 **A. Well, we were facing some budget problems, so**  
14 **they're looking for someone who could manage the**  
15 **budget, someone who knew instruction, that was just**  
16 **one meeting of brainstorming, and someone who cared**  
17 **about children, I would hope. But I didn't even see**  
18 **the application once -- they were developing the**  
19 **application together, and I didn't even see the**  
20 **application.**  
21 Q. Let me ask a global question.  
22 **A. Yeah.**  
23 Q. Did the issue of School Board prayer or prayer  
24 in schools come up at all in that meeting?

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1 **A. No. Not that I recall.**  
2 Q. I have some general questions that have to do  
3 with communications or conversations that you've had  
4 with anyone in the district, okay? Have you ever had  
5 a conversation with anyone in the district in which  
6 they expressed the opinion that the Board's defense of  
7 this lawsuit was a defense of Christian values?  
8 **A. No, I can't say that I have.**  
9 Q. And these questions are not meant to be a  
10 question about the precise words, but words or  
11 substance. Has anyone ever said to you or expressed  
12 the view that the Board's defense of this lawsuit was  
13 a defense of Christian values?  
14 **A. No, I can't say that.**  
15 Q. Have you ever had anyone express any views to  
16 you about the, the Board's defense of this lawsuit?  
17 **A. If people started talking about it, I usually**  
18 **said, "I don't want to talk about it. I don't -- I'm**  
19 **not talking about it."**  
20 Q. And your answer was expressed in "I usually  
21 said that." Is that what you always did?  
22 **A. Yeah, I would say a majority of the time. I**  
23 **didn't have any reason to talk to anybody about it.**  
24 Q. Well, but people, on the other hand, might

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1 think that they had a reason to talk to you, and  
2 that's the reason for my question to you about whether  
3 anyone expressed the view that the defense of the  
4 lawsuit was a defense of Christian values.  
5 **A. I don't -- I mean like at spin class somebody**  
6 **might bring up the lawsuit, and I would just say, "I'm**  
7 **not talking about it."**  
8 Q. And when they brought up the lawsuit, did  
9 anyone ever say, "Look, thanks for standing up for  
10 Christian values"?  
11 **A. There were people who would say something like**  
12 **that, "Thanks for standing up for school prayer," or**  
13 **whatever they thought the issue was.**  
14 Q. And because you weren't commenting on the  
15 lawsuit, you would not correct whatever misimpression  
16 you thought there was?  
17 **A. No.**  
18 Q. Did you ever -- I think I know the answer to  
19 this question. But did you ever tell anyone this case  
20 is not about Christian values?  
21 **A. No.**  
22 Q. If somebody said to you, "Thanks for standing  
23 up for Christian values," did you say, "It's not about  
24 Christian values"?

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1 **A. No.**  
2 Q. On the occasions when someone said to you or  
3 expressed the view that the defense of this lawsuit  
4 was a defense of Christian values, is it correct that  
5 you just didn't respond?  
6 **A. I would say that I stayed out of responding to**  
7 **anybody about this case.**  
8 Q. Okay. Now I want to ask some questions about  
9 the Board's consideration of the Board prayer policy.  
10 Okay? And this incorporates discussions at public  
11 meetings if they occurred, discussions at executive  
12 session meetings if they occurred, any time. Okay?  
13 Do you recall any discussion --  
14 MR. GOSSELIN: Objection. I think in the  
15 previous testimony she said that the only executive  
16 session discussion she can recall was that August 23rd  
17 one which is covered by attorney-client privilege. So  
18 I would instruct her not to answer if the answer would  
19 reveal something that took place during that meeting.  
20 But otherwise, I don't have an objection  
21 to the question.  
22 MR. ALLINGHAM: Okay.  
23 BY MR. ALLINGHAM:  
24 Q. Do you understand your counsel's instruction?

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1 THE WITNESS: I don't know how to do it.  
2 MR. GOSSELIN: I don't know what the  
3 question is going to be.  
4 THE WITNESS: I don't know what the  
5 question is going to be.  
6 MR. GOSSELIN: But if it involves  
7 revealing what took place at that August 23rd meeting  
8 that we talked about before, the instruction is to not  
9 answer that question.  
10 THE WITNESS: Okay.  
11 BY MR. ALLINGHAM:  
12 Q. And I may have to ask a couple of questions to  
13 develop the record because of the nature of the  
14 instruction.  
15 So my first question is, at any time  
16 during the Board's consideration of the School Board  
17 prayer policy, do you recall any Board member saying  
18 or expressing the view that perhaps the Board should  
19 consider a moment of silence instead of a prayer?  
20 **A. I think Mr. Isaacs may have said that once.**  
21 Q. And what was the response?  
22 **A. Just that the Board's feeling was they wanted**  
23 **to continue the tradition.**  
24 Q. Do you recall during the discussion of the

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1 moment of silence idea one or more Board members  
2 saying, "I don't want to be told how I can pray," in  
3 words or substance?  
4 **A. I'm not sure what meeting that would be, but I**  
5 **did hear something like that.**  
6 Q. Who said that?  
7 **A. I don't recall who said it.**  
8 Q. What did you understand, if you had an  
9 understanding, the purpose of the Board policy on  
10 School Board prayer to be?  
11 **A. That it would be shared, that we wouldn't be**  
12 **preaching any one religion to anyone, that it would be**  
13 **shared amongst the Board members to say a prayer. If**  
14 **they chose a moment of silence, they could choose a**  
15 **moment of silence. If they chose a prayer, they could**  
16 **choose a prayer. But as a legislative body, it was up**  
17 **to that individual who was ever giving the prayer to**  
18 **say whatever prayer they wanted.**  
19 **And oftentimes I would say to whoever,**  
20 **when I heard who was giving the prayer that, you know,**  
21 **you know, a teacher died of a brain tumor, a fire of**  
22 **the children, so often they would bless that, you**  
23 **know, they would say, you're in our thoughts, that**  
24 **family, who's ever gone through this tragedy is in our**

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1 **thoughts.**  
2 Q. According to your understanding, Miss Hobbs, is  
3 the prayer directed only to the individual Board  
4 members, or is it directed to all of the people in the  
5 cafeteria or auditorium in which the prayer is being  
6 offered?  
7 **A. I believe it's the Board members' prayer.**  
8 Q. So it's directed only to the Board members?  
9 **A. I think they sort of clarify it with a**  
10 **statement before that says if you don't want to**  
11 **participate in the prayer, you may leave the room, or**  
12 **whatever that little paragraph says.**  
13 Q. That's the so-called disclaimer?  
14 **A. Yeah, um-hum.**  
15 MR. GOSSELIN: Or "the disclaimer."  
16 Objection.  
17 MR. ALLINGHAM: I'm sorry?  
18 MR. GOSSELIN: Objection to the form.  
19 MR. ALLINGHAM: It wasn't meant to be  
20 substantively charged. I thought you'd object if I  
21 called it the disclaimer.  
22 BY MR. ALLINGHAM:  
23 Q. I showed you the actual Board policy, PX 9.  
24 Would you see if you can get that out again?

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1 **A. Yes.**  
2 Q. Paragraph 1 reads "In order to solemnify its  
3 proceedings the Board of Education may choose to open  
4 its meetings with a prayer or moment of silence, all  
5 in accord with the freedom of conscience of the  
6 individual adult Board member."  
7 Would you agree with me that according to  
8 the policy, the purpose of the offering of a prayer or  
9 moment of silence is to solemnify the proceedings?  
10 **A. Yes.**  
11 Q. And what do you understand the solemnification  
12 of the proceedings to mean? What does that phrase  
13 mean?  
14 **A. I think they were just trying to bring some**  
15 **dignity and, you know, ask for guidance in their**  
16 **decision about children.**  
17 Q. Was there any discussion about that at any time  
18 that you recall?  
19 **A. Not that I recall.**  
20 Q. Was there ever any discussion of the purpose of  
21 having a prayer to open Board meetings during any of  
22 the Board's consideration of this Board policy?  
23 **A. I think it's been a tradition they've been**  
24 **opening the Board meetings with a prayer.**

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1 Q. Is that answer that there was no discussion of  
2 the purpose of the prayer, that the Board simply said,  
3 "Look, this is what we've always done"?  
4 **A. And that they felt that as a legislative body,**  
5 **they had a right to do. That would be all I would**  
6 **understand about the reason to open with a prayer.**  
7 Q. At any time during the Board's consideration of  
8 the School Board prayer policy, did anyone suggest  
9 that the Board consider offering its prayer privately  
10 before the Board enters the meeting?  
11 **A. I'm not sure -- that may have been a**  
12 **suggestion. I'm not sure what meeting.**  
13 Q. Do you know who made that suggestion?  
14 **A. No, I really don't.**  
15 Q. Do you know what the response was?  
16 **A. No, I don't recall.**  
17 Q. You testified in an earlier answer that  
18 sometimes you would bring to the attention of the  
19 people at the meeting that someone had passed away and  
20 ask for a prayer for that person. Do you recall that  
21 testimony?  
22 **A. Yeah. I would always let them know if we had a**  
23 **tragedy in the district, if I knew of it.**  
24 Q. Yes.

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1 **A. And then during that prayer, it was up to them,**  
2 **I didn't tell them what to say, I just said, so and so**  
3 **lost their son or daughter in a car accident, or so**  
4 **and so died of a brain tumor or massive heart attack.**  
5 **And if it was timely enough, they would mention, you**  
6 **know, that family.**  
7 Q. And when you say "they," that would be the  
8 Board member who was asked to open the meeting with a  
9 prayer?  
10 **A. Right, um-hum.**  
11 Q. Okay. Do you recall having asked for a moment  
12 of silence in memory of a principal of a district  
13 school who passed away suddenly?  
14 **A. If that would most likely have been Lorraine**  
15 **Wray --**  
16 Q. Yes, ma'am.  
17 **A. -- who was the principal of -- that was the**  
18 **most shocking thing I've ever been through.**  
19 Q. And do you recall asking for a moment of  
20 silence?  
21 **A. I may have done that. I'm not saying I didn't,**  
22 **because I...**  
23 Q. Do you know whether in addition to the moment  
24 of silence you requested for Dr. Lorraine Wray, there

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1 was a prayer to open the meeting as well?  
2 **A. No, not that I recall. There was a memorial**  
3 **service, which I had to give her eulogy. But that was**  
4 **done by her family and her church.**  
5 Q. Do you know who Jim Bunting is?  
6 **A. I believe he is athletic coach or coach of a**  
7 **football team, one of the coaches.**  
8 Q. Is he related to Susan Bunting?  
9 **A. No, I don't -- well, I'm not -- you know, I**  
10 **don't want to say that. A lot of people down here are**  
11 **related to one another. That could surprise you.**  
12 Q. I was going to say, there seem to be a lot of  
13 Buntings down here.  
14 **A. There are a lot of Buntings, a lot of Hudsons,**  
15 **yeah. They're some Sussex County names. I wouldn't**  
16 **want to state that.**  
17 Q. I just want to make sure that I got the  
18 testimony right. Is it correct that as you sit here  
19 today, you have no recollection of the Board having  
20 discussed the purpose for opening its meetings with a  
21 prayer or a moment of silence? That the discussion  
22 centered on, "This is what we've always done"?  
23 **A. Unless it was in that meeting that, the closed**  
24 **meeting, I don't --**

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1 Q. Yeah, let's set that meeting aside for a  
2 minute. Other than that, you do not recall any  
3 discussion of the purpose of opening a meeting with a  
4 prayer?  
5 **A. Not that I recall. That it was more or less**  
6 **the --**  
7 Q. Now, without telling me what the discussion was  
8 at that August 23 executive session, do you recall  
9 that there was a discussion of the purpose of opening  
10 the meeting with a prayer?  
11 **A. I think there were views expressed by**  
12 **individuals on how they felt the importance of prayer**  
13 **was at opening a meeting. And different individuals**  
14 **felt stronger than others about it.**  
15 Q. Earlier in this deposition in response to one  
16 of my many, one of many questions that I posed that  
17 Mr. Gosselin thought was inappropriate, he offered me  
18 a question that he thought would be appropriate, which  
19 was to ask you what, whether you have a view as to the  
20 Board Policy BDA.1. So let me ask that question.  
21 When you were superintendent, did you form a view  
22 about that policy?  
23 **A. A view as, as my opinion of the policy or --**  
24 Q. Yes.

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1 **A. -- my feeling toward the policy?**  
2 Q. Yes.  
3 **A. Or what do you mean by view?**  
4 Q. What were your feelings toward the policy?  
5 **A. I normally, I mean I don't get into the Board's**  
6 **policies. But I felt that the Board had offered**  
7 **alternatives to the prayer by the choice of the**  
8 **person. And I thought, you know, a moment of silence,**  
9 **I mean if I would be a Board member, I would have**  
10 **probably chose a moment of silence, but I'm not a**  
11 **Board member.**  
12 Q. Why would you have chosen a moment of silence?  
13 **A. That's what I would have chosen.**  
14 Q. Paragraph 3 of the Board prayer policy reads,  
15 "Such opportunity," and that's the opportunity to  
16 offer a prayer, "Such opportunity shall not be used or  
17 exploited to proselytize, advance or convert anyone or  
18 to derogate or otherwise disparage any particular  
19 faith or belief."  
20 In the Board meetings beginning with the  
21 Board meeting on October 19th, 2004, did you ever hear  
22 a Board member offer a prayer that you believed  
23 proselytized, advanced or converted anyone or  
24 derogated or otherwise disparaged any particular faith

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1 or belief?  
2 **A. I don't believe so. I would imagine that would**  
3 **be taken personally by an individual hearing a prayer.**  
4 **But as far as I'm concerned, I don't think that way.**  
5 Q. I take your last answer to be an acknowledgment  
6 that different people might view the same prayer in  
7 different ways.  
8 **A. Yes.**  
9 Q. Correct? And that might depend on, for  
10 example, the religious faith of the person hearing the  
11 prayer?  
12 **A. I would assume so. Or if they had no religious**  
13 **faith.**  
14 Q. Yes, ma'am.  
15 Oh, with respect to the opportunity for  
16 people to respond to the disclaimer that is read  
17 before the Board prayer, the disclaimer, we've had  
18 testimony from Mr. Bireley that the disclaimer is --  
19 that he reads is paragraph 1 and paragraph 4 of the  
20 Board prayer policy. If you'd take a minute to look  
21 at those and tell me whether you can confirm that  
22 that's what Mr. Bireley, when he was president, read.  
23 **A. Yes.**  
24 Q. And --

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1 **A. I would agree.**  
2 Q. Is it correct that you understood that the  
3 statement, "No school employee, student in attendance,  
4 or member of the community in attendance shall be  
5 required to participate in any such prayer or moment  
6 of silence," you view that as a statement to the  
7 people assembled in the cafeteria or the auditorium  
8 that if they don't want to participate, they can get  
9 up and leave, correct?  
10 **A. Yes, or just not participate.**  
11 Q. Just not participate by not bowing their hands?  
12 **A. Yeah, people don't pledge the flag, they don't**  
13 **stand up.**  
14 Q. Do you think it would be difficult for a  
15 student to, who didn't want to participate in the  
16 prayer to get up and leave?  
17 MR. GOSSELIN: Objection.  
18 Q. Let me ask a preliminary question. We've  
19 established that there are, at least during the  
20 academic school year, typically children in attendance  
21 at the School Board meetings. And I assume, correct  
22 me if I'm wrong, that you don't assume that every one  
23 of those children wants to participate in the prayer  
24 that the Board member is offering, correct?

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1 **A. No, I wouldn't assume that.**  
2 Q. And in fact, the disclaimer is intended to  
3 provide the opportunity for everyone in attendance if  
4 they want to to get up and leave the room?  
5 **A. Or not come before the meeting starts, or**  
6 **whenever we do the prayer.**  
7 Q. Yes.  
8 **A. They have that choice.**  
9 Q. Well, some students are told to be at the  
10 meeting before the meeting opens; isn't that right?  
11 **A. I don't know what the students are told.**  
12 Q. You don't know whether students, for example --  
13 **A. The principals make those arrangements with the**  
14 **students.**  
15 Q. Okay. At all events, to come back to my  
16 question, do you think it would be difficult for a,  
17 one of the children in attendance to get up and walk  
18 out of a meeting in front of all the people assembled  
19 in the School Board meeting in order to avoid  
20 participating in the prayer?  
21 **A. I would imagine that would be difficult.**  
22 Q. Because as he we said earlier, children don't  
23 like to be seen as doing something different from what  
24 everybody else is doing, correct?

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1 **A. Most of them have their parents with them at**  
2 **those meetings, they bring them. So I would imagine**  
3 **the parents would walk out with them.**  
4 Q. Do you think it would be easy for an adult  
5 resident of Indian River to walk out, particularly  
6 after the August 24th meeting?  
7 **A. I really don't know. I don't think I should**  
8 **form an opinion on that.**  
9 Q. Well, let me ask a factual question. Is that  
10 something that you just haven't thought about until I  
11 asked you that question today?  
12 **A. I would say that's probably so.**  
13 Q. I asked you some questions about the August  
14 24th meeting earlier, and about the atmosphere at that  
15 meeting. Do you think that a person who was in  
16 attendance at that meeting would feel comfortable  
17 addressing the Board on matters of religion after that  
18 meeting; that is, at a subsequent Board meeting?  
19 MR. GOSSELIN: Objection.  
20 **A. I feel if they had a strong conviction or -- if**  
21 **they felt strongly enough about an issue, they would**  
22 **address the Board. There was no one -- I mean it was**  
23 **an orderly, mannered Board meeting. People were**  
24 **emotional, but there was no one hurt or anything at**

53 (Pages 206 to 209)



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v.  
C.A. # 15-120 (JJF)

Indian River School District, et al.  
October 24, 2006

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1 **that Board meeting physically, so I don't know.**  
2 Q. You mean physically hurt?  
3 **A. Yeah.**  
4 Q. You don't think, for example, that Mrs. Dobrich  
5 was emotionally hurt by the reaction from the crowd to  
6 what she said?  
7 **A. I would imagine she was.**  
8 Q. Do you think that would make it harder for a  
9 child or an adult to speak up before, before a  
10 subsequent Board meeting on matters of religion,  
11 having seen what happened to Mrs. Dobrich?  
12 **A. Possibly they might feel that way.**  
13 MR. ALLINGHAM: Must be music to your  
14 ears, huh?  
15 Q. Let me show you what we've previously marked as  
16 PX 18. And what I'd like you to do is turn to --  
17 well, I guess I should identify it. This is the final  
18 minutes of the September 28, 2004 Board meeting. Your  
19 signature is on the last page. You are reflected as  
20 having been in attendance on page 2.  
21 And what I'd like you to do is turn to  
22 page 9 of the minutes.  
23 **A. You have it marked, sorry.**  
24 Q. Are you there?

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1 **A. Yes, I'm here.**  
2 Q. Okay. Now, to put this in context, this is the  
3 first regular Board meeting after the August 24th  
4 meeting. And you'll see under "Public Comments" there  
5 is a reference to Jerry Fike. Do you know Mr. Fike?  
6 **A. He was the person who spoke at the Sussex**  
7 **senior graduation. I don't know him personally.**  
8 Q. Okay. You were not the person who invited him  
9 to that graduation?  
10 **A. No.**  
11 Q. Do you know who was?  
12 **A. Normally, it's been the -- that the students**  
13 **invite the people who speak, and normally I would say**  
14 **it would be a parent. Often it's a parent of one of**  
15 **the students.**  
16 Q. It doesn't matter, there is a policy on this  
17 now.  
18 The minutes reflect that Reverend Fike  
19 thanked the Board for continuing to have a prayer at  
20 the beginning of the Board meeting. He also expressed  
21 his apology to Mona Dobrich for any comments he made  
22 during his prayer at Sussex Central High School's  
23 graduation ceremonies that offended her. Do you see  
24 that?

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1 **A. Yes, I do.**  
2 Q. Now, when you signed the minutes, did you  
3 believe that that was an accurate reflection of what  
4 the Reverend Fike said?  
5 **A. Yes.**  
6 Q. What did you do to make sure that it was  
7 accurate, if anything?  
8 **A. I just -- Janet takes the meetings, I read**  
9 **them, to my recollection. If it's -- you know, I sign**  
10 **the minutes, so...**  
11 Q. Is it fair to say, Miss Hobbs, that for matters  
12 like this, you do rely on Mrs. Hearn to get the, to  
13 get the summary of the statements correct?  
14 **A. Yes.**  
15 Q. Okay. I'm going to play a portion of the tape  
16 of the September 28th meeting, and this is the  
17 comments of the Reverend Fike. And I'll tell you in  
18 advance what my question is. My question is, do you  
19 hear the Reverend Fike expressing his apology to Mona  
20 Dobrich for any comments that he made?  
21 (At this time Exhibit 52, an audio  
22 recording, was played for the witness.)  
23 MR. LENHARD: For the record, that was PX  
24 52, from 30 minutes and 24 seconds to 31 minutes and

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1 28 seconds.  
2 BY MR. ALLINGHAM:  
3 Q. My first question to you is, did you hear the  
4 Reverend Jerry Fike expressing his apology to Mona  
5 Dobrich for any comments he made during his prayer at  
6 Sussex Central's graduation ceremonies that offended  
7 her?  
8 **A. Actually, I didn't hear an apology, I just**  
9 **heard what he said here. We most likely was**  
10 **summarized as an apology, that he wasn't her enemy or**  
11 **whatever he just said here.**  
12 Q. You didn't hear any apology, did you?  
13 **A. No, uh-uh.**  
14 Q. As superintendent, did you view the Board as  
15 taking a courageous stand in the positions it has  
16 taken on graduation prayer and religion in the schools  
17 and School Board prayer?  
18 **A. As superintendent, I thought they moved in the**  
19 **right direction to work on the policies on graduation**  
20 **to change those policies or what had happened in the**  
21 **past to work on those. I wouldn't call it courageous.**  
22 **I thought they were moving in the right direction.**  
23 MR. ALLINGHAM: All right, what I'd like  
24 to do is go off the record for about five minutes. I

54 (Pages 210 to 213)

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1 think that I'm done, and if I'm not, I can try to  
2 clean things up quickly, okay?  
3 THE VIDEOGRAPHER: Going off the record at  
4 approximately 4:46 p.m.  
5 (A brief recess was taken.)  
6 THE VIDEOGRAPHER: Back on the record at  
7 4:50 p.m.  
8 MR. ALLINGHAM: Miss Hobbs, thank you very  
9 much for your patience. I have no further questions.  
10 THE WITNESS: Thank you.  
11 THE VIDEOGRAPHER: Deposition is ending at  
12 approximately 4:50 p.m.  
13 -----  
14 I N D E X  
15 Deponent: LOIS HOBBS Page  
16 By Mr. Allingham..... 3  
17 E X H I B I T S  
18 Plaintiffs': Page  
19 59 Letter dated 10/23/06 from Drinker Biddle 121  
20 Firm with attached Privilege Log  
21 -----  
22  
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6 Replace this page  
7 with the Errata Sheet  
8 after it has been  
9 completed and signed  
10 by the Deponent  
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1 CERTIFICATE  
2 STATE OF DELAWARE)  
3 NEW CASTLE COUNTY)  
4 CERTIFICATE OF REPORTER  
5 I, Julie H. Parrack, Registered Professional  
6 Reporter and Notary Public, do hereby certify that  
7 there came before me on the 24th day of October, 2006,  
8 the deponent herein, LOIS HOBBS, who was duly sworn by  
9 me and thereafter examined by counsel for the  
10 respective parties; that the questions asked of said  
11 deponent and the answers given were taken down by me  
12 in Stenotype notes and thereafter transcribed by use  
13 of computer-aided transcription and computer printer  
14 under my direction.  
15 I further certify that the foregoing is a true  
16 and correct transcript of the testimony given at said  
17 examination of said witness.  
18 I further certify that I am not counsel,  
19 attorney, or relative of either party, or otherwise  
20 interested in the event of this suit.  
21  
22 Julie H. Parrack, RMR, CRR  
23 Certification No. 102-RPR  
24 (Expires January 31, 2008)  
DATED: \_\_\_\_\_